

**SELECTED IMPORTANT TEXTS
AND DOCUMENTS**

【中華民國精選政治文件】

Treaties, declarations and resolutions
concerning politics of Taiwan / the ROC



A **WONDERFUL TAIWAN FORUM** publication
By Tilman Aretz
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Selected important texts and documents

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REMARKS FROM THE EDITOR

In the field of international politics, the status of the Republic of China (*Zhonghua minguo* 中華民國, abbrev. ROC, established in 1912) has long been highly controversial. Most countries in the world recognize the “One China” principle, i. e. its interpretation by the People’s Republic of China (*Zhonghua renmin gongheguo* 中華人民共和國, abbrev. PRC, established in 1949), according to which “there is only one China in the world and Taiwan is a part of that China”. Merely 15 states, most of them with no international importance, maintained formal diplomatic relations with the ROC in 2020. The existence of the ROC is not only denied internationally but also domestically by pro-independence activists in Taiwan who claim that there was no legal foundation for Taiwan to be put under ROC control in 1945, making the now Taipei-based ROC government a “government-in-exile” (*liuwang zhengfu* 流亡政府).

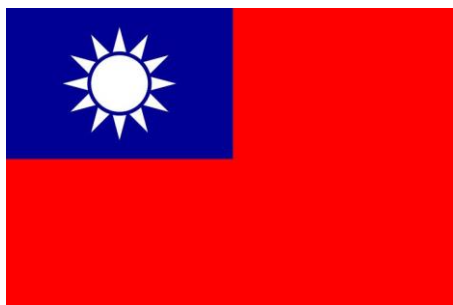
Please note that the documents shown in this file are listed in chronological order. Most of them were selected for their significance to the status of China and Taiwan/the PRC and the ROC. Others were picked for their significance in the dispute concerning the Diaoyutai Islands (*Diaoyutai lieyu* 釣魚台列嶼)—called “Senkaku Islands” (Senkaku shotō 尖閣諸島) in Japanese—in the East China Sea which are claimed by the ROC, the PRC, and Japan, or as reference to be used in the controversy about overlapping sovereignty claims in the South China Sea, e. g. the Spratly Islands (*nansha qundao* 南沙群島).

All documents are presented in original full text, with two exceptions. Because the Treaty of Versailles and the UN Convention on the Law of the Sea (UNCLOS) are far too large to be included here (in fact, UNCLOS is even larger than all other texts in this file combined), only parts deemed relevant by the editor were selected—of the Treaty of Versailles which in the original has 440 articles in 15 parts, ten articles can be read in this file, and one article out of the 320 articles in 17 parts of UNCLOS. A scissors symbol (“✂”) indicates that most of the document’s articles were left out.

As for important quotes like Bill Clinton’s “Three No’s”, Lee Teng-hui’s remarks about the “special state-to-state relationship” between the ROC and the PRC, and Colin Powell’s statement on “one China” and Taiwan, only the paragraph with the actual wording is rendered here. Additional notes from the editor are marked as such and highlighted with a red square (■).

FURTHER READING

This file is part of the second volume of the POLITICIANS IN THE REPUBLIC OF CHINA database. For viewing the whole Vol. 2, click [here](#). For viewing Vol. 1, click [here](#). For viewing the tables of contents of Vol. 1 and 2, click [here](#).



Treaty of Shimonoseki

TREATY OF PEACE

His Majesty the Emperor of Japan and His Majesty the Emperor of China, desiring to restore the blessings of peace to their countries and subjects and to remove all cause for future complications, have named as their Plenipotentiaries for the purpose of concluding a Treaty of Peace, that is to say:

His Majesty the Emperor of Japan, Count ITO Hirobumi, Junii, Grand Cross of the Imperial Order of Paulownia, Minister President of State; and Viscount MUTSU Munemitsu, Junii, First Class of the Imperial Order of the Sacred Treasure, Minister of State for Foreign Affairs.

And His Majesty the Emperor of China, LI Hung-chang, Senior Tutor to the Heir Apparent, Senior Grand Secretary of State, Minister Superintendent of Trade for the Northern Ports of China, Viceroy of the province of Chili, and Earl of the First Rank; and LI Ching-fong, Ex-Minister of the Diplomatic Service, of the Second Official Rank:

Who, after having exchanged their full powers, which were found to be in good and proper form, have agreed to the following Articles:—

Article 1

China recognises definitively the full and complete independence and autonomy of Korea, and, in consequence, the payment of tribute and the performance of ceremonies and formalities by Korea to China, in derogation of such independence and autonomy, shall wholly cease for the future.

Article 2

China cedes to Japan in perpetuity and full sovereignty the following territories, together with all fortifications, arsenals, and public property thereon:—

(a) The southern portion of the province of Fêngtien within the following boundaries:

The line of demarcation begins at the mouth of the River Yalu and ascends that stream to the mouth of the River An-ping, from thence the line runs to Fêng-huang, from thence to Hai-cheng, from thence to Ying-kow, forming a line which describes the southern portion of the territory. The places above named are included in the ceded territory. When the line reaches the River Liao at Ying-kow, it follows the course of the stream to its mouth, where it terminates. The mid-channel of the River Liao shall be taken as the line of demarcation.

This cession also includes all islands appertaining or belonging to the province of Fêngtien situated in the eastern portion of the Bay of Liao-tung and the northern portion of the Yellow Sea.

(b) The island of Formosa, together with all islands appertaining or belonging to the said island of Formosa.

(c) The Pescadores Group, that is to say, all islands lying between the 119th and 120th degrees of longitude east of Greenwich and the 23rd and 24th degrees of north latitude.

Article 3

The alignment of the frontiers described in the preceding Article, and shown on the annexed map, shall be subject to verification and demarcation on the spot by a Joint Commission of Delimitation, consisting of two or more Japanese and two or more Chinese delegates, to be appointed immediately after the exchange of the ratifications of this Act. In case the boundaries laid down in this Act are found to be defective at any point, either on account of topography or in consideration of good administration, it shall also be the duty of the Delimitation Commission to rectify the same.

The Delimitation Commission will enter upon its duties as soon as possible, and will bring its labours to a conclusion within the period of one year after appointment.

The alignments laid down in this Act shall, however, be maintained until the rectifications of the Delimitation Commission, if any are made, shall have received the approval of the Governments of Japan and China.

Article 4

China agrees to pay to Japan as a war indemnity the sum of 200,000,000 Kuping taels; the said sum to be paid in eight instalments. The first instalment of 50,000,000 taels to be paid within six months, and the second instalment of

50,000,000 to be paid within twelve months, after the exchange of the ratifications of this Act. The remaining sum to be paid in six equal instalments as follows: the first of such equal annual instalments to be paid within two years, the second within three years, the third within four years, the fourth within five years, the fifth within six years, and the sixth within seven years, after the exchange of the ratifications of this Act. Interest at the rate of 5 per centum per annum shall begin to run on all unpaid portions of the said indemnity from the date the first instalment falls due.

China shall, however, have the right to pay by anticipation at any time any or all of the said instalments. In case the whole amount of the said indemnity is paid within three years after the exchange of the ratifications of the present Act all interest shall be waived, and the interest for two years and a half or for any less period, if any already paid, shall be included as part of the principal amount of the indemnity.

Article 5

The inhabitants of the territories ceded to Japan who wish to take up their residence outside the ceded districts shall be at liberty to sell their real property and retire. For this purpose a period of two years from the date of the exchange of ratifications of the present Act shall be granted. At the expiration of that period those of the inhabitants who shall not have left such territories shall, at the option of Japan, be deemed to be Japanese subjects.

Each of the two Governments shall, immediately upon the exchange of the ratifications of the present Act, send one or more Commissioners to Formosa to effect a final transfer of that province, and within the space of two months after the exchange of the ratifications of this Act such transfer shall be completed.

Article 6

All Treaties between Japan and China having come to an end as a consequence of war, China engages, immediately upon the exchange of the ratifications of this Act, to appoint Plenipotentiaries to conclude with the Japanese Plenipotentiaries, a Treaty of Commerce and Navigation and a Convention to regulate Frontier Intercourse and Trade. The Treaties, Conventions, and Regulations now subsisting between China and the European Powers shall serve as a basis for the said Treaty and Convention between Japan and China. From the date of the exchange of ratifications of this Act until the said Treaty and Convention are brought into actual operation, the Japanese Governments, its officials, commerce, navigation, frontier intercourse and trade, industries, ships, and subjects, shall in every respect be accorded by China most favoured nation treatment.

China makes, in addition, the following concessions, to take effect six months after the date of the present Act:—

First.—The following cities, towns, and ports, in addition to those already opened, shall be opened to the trade, residence, industries, and manufactures of Japanese subjects, under the same conditions and with the same privileges and facilities as exist at the present open cities, towns, and ports of China:

- Shashih, in the province of Hupeh.
- Chungking, in the province of Szechwan.
- Suchow, in the province of Kiangsu.
- Hangchow, in the province of Chekiang.

The Japanese Government shall have the right to station consuls at any or all of the above named places.

Second.—Steam navigation for vessels under the Japanese flag, for the conveyance of passengers and cargo, shall be extended to the following places:

- On the Upper Yangtze River, from Ichang to Chungking.
- On the Woosung River and the Canal, from Shanghai to Suchow and Hangchow.

The rules and regulations that now govern the navigation of the inland waters of China by Foreign vessels shall, so far as applicable, be enforced, in respect to the above named routes, until new rules and regulations are conjointly agreed to.

Third.—Japanese subjects purchasing goods or produce in the interior of China, or transporting imported merchandise into the interior of China, shall have the right temporarily to rent or hire warehouses for the storage of the articles so purchased or transported without the payment of any taxes or extractions whatever.

Fourth.—Japanese subjects shall be free to engage in all kinds of manufacturing industries in all the open cities, towns, and ports of China, and shall be at liberty to import into China all kinds of machinery, paying only the stipulated import duties thereon.

All articles manufactured by Japanese subjects in China shall, in respect of inland transit and internal taxes, duties, charges, and exactions of all kinds, and also in respect of warehousing and storage facilities in the interior of

China, stand upon the same footing and enjoy the same privileges and exemptions as merchandise imported by Japanese subjects into China.

In the event additional rules and regulations are necessary in connexion with these concessions, they shall be embodied in the Treaty of Commerce and Navigation provided for by this Article.

Article 7

Subject to the provisions of the next succeeding Article, the evacuation of China by the armies of Japan shall be completely effected within three months after the exchange of the ratifications of the present Act.

Article 8

As a guarantee of the faithful performance of the stipulations of this Act, China consents to the temporary occupation by the military forces of Japan of Weihaiwei, in the province of Shantung.

Upon payment of the first two instalments of the war indemnity herein stipulated for and the exchange of the ratifications of the Treaty of Commerce and navigation, the said place shall be evacuated by the Japanese forces, provided the Chinese Government consents to pledge, under suitable and sufficient arrangements, the Customs revenue of China as security for the payment of the principal and interest of the remaining instalments of the said indemnity. In the event that no such arrangements are concluded, such evacuation shall only take place upon the payment of the final instalment of said indemnity.

It is, however, expressly understood that no such evacuation shall take place until after the exchange of the ratifications of the Treaty of Commerce and Navigation.

Article 9

Immediately upon the exchange of the ratifications of this Act, all prisoners of war then held shall be restored, and China undertakes not to ill-treat or punish prisoners of war so restored to her by Japan. China also engages to at once release all Japanese subjects accused of being military spies or charged with any other military offences. China further engages not to punish in any manner, nor to allow to be punished, those Chinese subjects who have in any manner been compromised in their relations with the Japanese army during the war.

Article 10

All offensive military operations shall cease upon the exchange of the ratifications of this Act.

Article 11

The present Act shall be ratified by their Majesties the Emperor of Japan and the Emperor of China, and the ratifications shall be exchanged at Chefoo on the 8th day of the 5th month of the 28th year of MEIJI, corresponding to the 14th day of the 4th month of the 21st year of KUANG HSÜ.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the same and affixed thereto the seal of their arms.

DONE in Shimonoseki, in duplicate, this 17th day of the fourth month of the 28th year of MEIJI, corresponding to the 23rd day of the 3rd month of the 21st year of KUANG HSÜ.

Count **Ito Hirobumi** (*Junii, Grand Cross of the Imperial Order of Paullownia; Minister President of State; Plenipotentiary of His Majesty the Emperor of Japan*)

Viscount **Mutsu Munemitsu** (*Junii, First Class of the Imperial Order of the Sacred Treasure; Minister of State for Foreign Affairs; Plenipotentiary of His Majesty the Emperor of Japan*)

Li Hung-chang (*Plenipotentiary of His Majesty the Emperor of China; Senior Tutor to the Heir Apparent; Senior Grand Secretary of State; Minister Superintendent of Trade for the Northern Ports of China; Viceroy of the province of Chili; Earl of the First Rank*)

Li Ching-fong (*Plenipotentiary of His Majesty the Emperor of China; Ex-Minister of the Diplomatic Service, of the Second Official Rank*)

馬關條約

大清帝國大皇帝陛下及大日本帝國大皇帝陛下為訂立和約，俾兩國及其臣民重修和平，共用幸福，且杜絕將來紛紜之端，大清帝國大皇帝陛下特簡大清帝國欽差頭等全權大臣太子太傅文華殿大學士北洋通商大臣直隸總督一等肅毅伯爵李鴻章、大清帝國欽差全權大臣二品頂戴前出使大臣李經方、大日本帝國大皇帝陛下特簡大日本帝國全權辦理大臣內閣總理大臣從二位勳一等伯爵伊藤博文、大日本帝國全權辦理大臣外務大臣從二位勳一等子爵陸奧宗光為全權大臣，彼此校閱所奉諭旨，認明均屬妥實無闕。會同議定各條款，開列於左：

- 第一款 中國認明朝鮮國確為完全無缺之獨立自主國，故凡有虧損其獨立自主體制，即如該國向中國所修貢獻典禮等，嗣後全行廢決。
- 第二款 中國將管理下開地方之權，並將該地方所有堡壘軍器工廠及一切屬公對象，永遠讓與日本。
- 一、下開劃界以內之奉天省南邊地方以鴨綠江溯該江以抵安平河口，又以該河口劃至鳳凰城、海城、及營口而止，劃成折線以南地方。所有前開各城市，皆包括在劃界線內。該線抵營口之遼河後，及順流至海口止，彼此以河中心為界。遼東灣南岸及黃海北岸，在奉天所屬諸島亦一併在所讓界內。
 - 二、臺灣全島及所有附屬各島嶼。
 - 三、澎湖列島，即英國格林尼次東經百十九度起至百二十度止，及北緯三十三度起至二十四度之間諸島嶼。
- 第三款 前款所載及黏附本國之地圖所劃疆界，俟本約批准互換之後，兩國應各選派官員二名以上，為公同劃定疆界委員，就地踏勘，確定劃界。若遇本國所約疆界於地形或地理所關有礙難不便等情，各該委員等當妥為參酌更改。各該委員等當從速辦理界務，以期奉委之後限一年竣事，但遇各該委員等有所更定劃界，兩國政府未經認準以前，應據本約所定劃界為正。
- 第四款 中國約將庫平銀二萬萬兩交與日本，作為賠償軍費。該款分作八次交完。第一次五千萬兩，應在本約批准互換六個月內交清。第二次五千萬兩，應在本約批准互換後十二個月內交清。款平分六次，遞年交納，其法列下：第一次平分遞年之款，於兩年內交清。第二次於三年內交清，第三次於四年內交清，第四次於五年內交清，第五次於六年內交清，第六次於七年內交清。其年分均以本約批准互換之後起算。又第一次賠款交清後，未經交完之款，應按年加每百抽五之息，但無論何時應賠之款或全數或幾分，先期交清，均聽中國之便。如從條約批准互換之日起三年之內能全數還清，除將已付息金或兩年半或不及兩年半於應付本銀扣還外，仍全數免息。
- 第五款 本約批准互換之後，限兩年之內，日本準中國讓與地方人民願遷居讓與地方之外者，任便變賣所有產業退去界外，但限滿之後尚未遷徙者，酌宜視為日本臣民。又臺灣一省應於本約批准互換後，兩國立即各派大臣至臺灣，限於本約批准後兩個月交接清楚。
- 第六款 中日兩國所有約章，因此次失和，自屬廢決。中國約俟本約批准之後速派全權大臣與日本所派全權大臣，會同訂立通商行船條約，及陸路通商章程。兩國新訂約章，應以中國與泰西交國見行約章為本。又本國批准互換之日起，新訂約章未經實行之前，所有日本官吏臣民及商業工藝行船隻陸路通商等，與中國最為優待之國禮讓視，一律無異。中國約將下開讓與各款，以兩國全權大臣押蓋印日起，六個月後方可照辦。
- 第一、見今中國已開通商口岸之外，應準添設下開各處，立為通商口岸以便日本臣民往來僑寓，從事商業工藝製作。所有添設口岸，均照向開通商海口或向開內地鎮市章程一體辦理，應得優例及利益等，亦當一律享受。（一）湖北省荊州府沙市。（二）四川省重慶府。（三）江蘇省蘇州府。（四）浙江省杭州府。日本政府得派遣領事官於前開各口駐紮。
 - 第二、日本輪船得駛入下開各口，附搭行客裝運貨物：（一）從湖北省宜昌溯長江以至四川省重慶府。（二）從上海駛進吳淞江及運河以至蘇州府杭州府。中日兩國未經商定行船章程以前，上開各口行船務依外國船隻駛入中國內地水路見行章程照行。
 - 第三、日本臣民在中國內地購買工貨件，若自生之物，或將進口商貨運往內地之物，欲暫行存棧，除勿庸邊鈔派徵一切旅費外，得暫租棧房存貨。
 - 第四、日本臣民得在中國通商口岸城邑任便從事各項工藝製造，又得將各項機器任便裝運進口，只交所定進口稅。日本臣民在中國製造一切貨物，其於內地運送稅，內地稅鈔課什派，以及中國內地沾及寄存棧房之益即照日臣民運入中國之貨物一體辦理，至應優例豁免，亦莫不相同。
- 嗣後如有因以上加讓之事應增章程規條，即載入本款所稱之行船通商條約內。

- 第七款 日本軍隊見駐中國境內者，應於本約批准互換之後三個月內撤回，但須照次款所定辦理。
- 第八款 中國為保證認真實行約內所訂各款，聽允日本軍隊暫佔守山東省威海衛。又於中國將本約所定第一、第二兩次賠款交清，通商行船亦經批准互換之後，中國政府與日本政府確定周全妥善辦法，將通商口岸關稅作為剩款並息之抵押，日本可允撤回軍隊。倘中國不即確定抵押辦法則未經交清末次賠款之前，日本仍不撤回軍隊。
- 第九款 本約批准互換之後，兩國應將是時所有俘虜盡數交還。中國約將由日本遣還俘虜，並不加以虐待若或置於罪戾。中國約將認為軍事間諜或被嫌逮係之日本臣民，即行釋放，並約此次交仗之所有關涉日本軍隊之中國臣民，概予寬貸，並飭有司不得擅為逮係。
- 第十款 本約批准互換日起，應按兵息戰。
- 第十一款 自本約奉大清國大皇帝陛下及日本帝國大皇帝陛下批准之後，定於光緒二十一年四月十四日，即日本明治二十八年五月初八日，在煙臺互換。
- 為此兩國全權大臣署名蓋印，以昭信守。
- 大清帝國欽差頭等全權大臣太子太傅文華殿大學士北洋通商大臣直隸總督一等肅毅伯爵 李鴻章（押印）
- 大清帝國欽差全權大臣二品頂戴前出使大臣 李經芳（押印）
- 大日本帝國全權辦理大臣內閣總理大臣從二位一等伯爵 伊藤博文（押印）
- 大日本帝國全權辦理大臣外務大臣從二位勳一等子爵 陸奧宗光（押印）

光緒二十一年三月二十三日訂於下之關繕寫兩分。
 明治二十八年四月十七日

■ Editor's note =====

The Treaty of Shimonoseki (*Maguan tiaoyue* 馬關條約; title in Japanese: *Shimonoseki Jōyaku* 下関条約) was signed at Shimonoseki (下關) on April 17, 1895 and entered into force on May 8, 1895 by the exchange of the instruments of ratification at Chefoo (芝罘).

Liaotung Convention

His Majesty the Emperor of China and His Majesty the Emperor of Japan, desiring to conclude a Convention for the retrocession by Japan of all of the southern portion of the province of Fêngtien to the sovereignty of China, have for that purpose named as their Plenipotentiaries, that is to say:

His Majesty the Emperor of China, LI HUNG-CHANG, Minister Plenipotentiary, Senior Tutor of the Heir Apparent, Senior Grand Secretary of State and Earl of the First Rank, and His Majesty the Emperor of Japan, Baron HAYASHI TADASU, Shoshii, Grand Cross of the Imperial Order of the Sacred Treasure, Grand Officer of the Imperial Order of the Rising Sun, Minister Plenipotentiary and Envoy Extraordinary, who, after having communicated to each other their full powers, which were found to be in good and proper form, have agreed upon the following Articles:—

Article 1

Japan retrocedes to China in perpetuity and full sovereignty the southern portion of the province of Fêngtien, which was ceded to Japan under Article 2 of the Treaty of Shimonoseki on the 23rd day of the 3rd month of the 21st year of KUANG HSÜ, corresponding to the 17th day of the 4th month of the 28th year of MEIJI, together with all fortifications, arsenals, and public property thereon at the time the retroceded territory is completely evacuated by the Japanese forces in accordance with the provisions of Article 3 of this Convention, that is to say, the southern portion of the province of Fêngtien from the mouth of the River Yalu to the mouth of the River An-ping, thence to Feng-huang-ch'ên, thence to Hai-ch'êng and thence to Ying-kow; also all cities and towns to the south of this boundary and ail islands appertaining or belonging to the province of Fêngtien situated in the eastern portion of the Bay of Liaotung and in the northern part of the Yellow Sea. Article 3 of the Treaty of Shimonoseki is in consequence suppressed, as are also the provisions in the same Treaty with reference to the conclusion of a Convention to regulate frontier intercourse and trade.

Article 2

As compensation for the southern portion of the province of Fêngtien, the Chinese Government engage to pay to the Japanese Government 30,000,000 Kuping taels on or before the 30th day of the 9th month of the 21st year of KUANG HSÜ, corresponding to the 16th day of the 11th month of the 28th year of MEIJI.

Article 3

Within three months from the day on which China shall have paid to Japan the compensatory indemnity of 30,000,000 Kuping taels provided for in Article 2 of this Convention, the retroceded territory shall be completely evacuated by the Japanese forces.

Article 4

China engages not to punish in any manner, nor to allow to be punished, those Chinese subjects who have in any manner been compromised in connection with the occupation by the Japanese forces of the retroceded territory.

Article 5

The present Convention is signed in duplicate in the Chinese, Japanese, and English languages. All these texts have the same meaning and intention, but in case of any differences of interpretation between the Chinese and Japanese texts, such differences shall be decided by reference to the English text.

Article 6

The present Convention shall be ratified by His Majesty the Emperor of China and His Majesty the Emperor of Japan and the ratifications thereof shall be exchanged at Peking within 21 days from the present date.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the same and affixed thereto the seal of their arms.

DONE in Peking this 22nd day of the 9th month of the 21st year of KUANG HSÜ, corresponding to the 8th day of the 11th month of the 28th year of MEIJI.

LI HUNG-CHANG, [L.S.]——Minister Plenipotentiary of His Majesty the Emperor of China
 Senior Tutor to the Heir Apparent
 Senior Grand Secretary of State
 Earl of the First Rank

Baron HAYASHI TADASU, [L.S.]——Shoshii, Grand Cross of the Imperial Order of the Sacred Treasure
 Grand Officer of the Imperial Order of the Rising Sun
 Minister Plenipotentiary and Envoy Extraordinary of His Majesty the Emperor of Japan

《中日遼南條約》

大清國大皇帝陛下、大日本國大皇帝陛下欲締結條約，由日本國交還奉天省南邊地方，一切仍歸中國管理。大清國大皇帝陛下持簡欽差全權大臣太子太傅文華殿大學士一等肅毅伯爵李鴻章；

大日本國大皇帝陛下特簡欽差駐紮北京全權大臣正四位勳一等男爵林董；

均作為全權大臣，互示所奉文憑妥當，議定各條開列于左：

第一款 日本國將光緒二十一年三月二十三日，即明治二十八年四月十七日，訂立下之關係約第二款中國讓與日本國管理之奉天省南邊地方，即從鴨綠江口抵安平河口至鳳凰城、海城及營口而止，以南各城市邑以及遼東灣東岸、黃海北岸奉天所屬諸島嶼，並照本約第三款所定，日本國軍隊一律撤回之時，該地方內所有堡壘、軍器工廠及一切所屬公物件，永遠交還中國。因此下之關係約第三款，並擬訂立陸路通商章程之事，作為罷論。

第二款 中國約，為酬報交還奉天省南邊地方，將庫平銀三千萬兩，迨于光緒二十一年九月二十日，即明治二十八年十月十六日，交與日本國政府。

第三款 中國將本約第二款所定之酬款庫平銀三千萬兩交與日本國政府，自是日起，五個月以內，日本國軍隊從該交還地方一律撤回。

第四款 中國約，日本國軍隊佔踞之間，所有關涉該國軍隊之中國臣民概予寬貸，並飭有司不得攔為連係。

第五款 本約繕寫漢文、日本文及英文各二份，校對無偽，署名蓋印，漢文與日本文遇有解譯字義不同之處，以英文為憑。

第六款 本約欽奉大清國大皇帝陛下，大日本國大皇帝陛下批准，自署名蓋印之日起二十一日內，在北京互換。

為此兩國全權大臣署名蓋印，以昭信守。

大清帝國欽差全權大臣太子太傅文華殿大學士。一等肅毅伯爵 李鴻章

大日本帝國欽差駐紮北京全權大臣正四位勳一等男爵 林董

光緒二十一年九月二十二日

明治二十八年十一月初八日

訂於北京

■ Editor's note =====

The Liaotung Convention (*Liaodong tiaoyue* 遼東條約 or *Liaodong xieyi* 遼東協議) was signed in Beijing on Nov. 8, 1895 and is also known under the following names: Fengtian Peninsula Return Treaty (*Fengtian bandao huanfu tiaoyue* 奉天半島還付條約), Sino-Japanese Liao-south Treaty (*Zhong Ri Liaonan tiaoyue* 中日遼南條約), or Treaty of Peking (*Beijing tiaoyue* 北京條約); in Japanese: Treaty Concerning Fengtien Peninsula Return (*Hōten hantō kanpu ni kansuru jōyaku* 奉天半島還付に関する条約).

Peace Agreement between the Great Powers and China

Boxer Protocol, signed in Peking on Sept. 7, 1901

The Plenipotentiaries of Germany, M. Alfons Mumm (Freiherr von Schwarzenstein); of Austria-Hungary, Baron Moritz Czikan von Wahlborn; of Belgium, Maurice Joostens; of Spain, M. Bernardo J. de Cologan; of the United States, Mr. William W. Rockhill; of France, M. Paul Beau; of Great Britain, Sir Ernest Satow; of Italy, Marquis Salvago Raggi; of Japan, M. Jutarō Komura; of the Netherlands, M. Fridolin Marinus Knobel; of Russia, M. Michael de Giers; and the Plenipotentiaries of China, His Highness Yi-K'uang, Prince of the First Rank; Ch'ing, President of the Board of Foreign Affairs; and his Excellency Li Hung-chang, Count of the First Rank; Su-Yi, Tutor of the Heir Apparent; Grand Secretary of the Wen-Hua Throne Hall, Minister of Commerce, Superintendent of Trade for the North, Governor-General of Chihli, have met for the purpose of declaring that China has complied with the conditions laid down in the note of the 22nd December, 1900, and which were accepted in their entirety by His Majesty the Emperor of China in a Decree dated the 27th December, 1900.

Article 1

1) By an Imperial Edict of the 9th June last, Tsai-Feng, Prince of the First Rank, Chün, was appointed Ambassador of His Majesty the Emperor of China, and directed in that capacity to convey to His Majesty the German Emperor the expression of the regrets of His Majesty the Emperor of China and of the Chinese Government at the assassination of his Excellency the late Baron von Ketteler, German Minister.

Prince Chün left Peking on the 12th July last to carry out the orders which had been given him.

2) The Chinese Government has stated that it will erect on the spot of the assassination of his Excellency the late Baron von Ketteler, commemorative monument worthy of the rank of the deceased, and bearing an inscription in the Latin, German, and Chinese languages which shall express the regrets of His Majesty the Emperor of China for the murder committed.

The Chinese Plenipotentiaries have informed his Excellency the German Plenipotentiary, in a letter dated the 22nd July last, that an arch of the whole width of the street would be erected on the said spot, and that work on it was begun on the 25th June last.

Article 2

1) Imperial Edicts of the 13th and 21st February, 1901, inflicted the following punishments on the principal authors of the attempts and of the crimes committed against the foreign Governments and their nationals:—

Tsa-I, Prince Tuan, and Tsai-Lan, Duke Fu-kuo, were sentenced to be brought before the Autumnal Court of Assize for execution, and it was agreed that if the Emperor saw fit to grant them their lives, they should be exiled to Turkestan, and there imprisoned for life, without the possibility of commutation of these punishments.

Tsai Hsün, Prince Chuang, Ying-Nien, President of the Court of Censors, and Chao Shu-chiao, President of the Board of Punishments, were condemned to commit suicide.

Yü Hsien, Governor of Shansi, Chi Hsiu, President of the Board of Rites, and Hsü Cheng-yu, formerly Senior Vice-President of the Board of Punishments, were condemned to death.

Posthumous degradation was inflicted on Kang Yi, Assistant Grand Secretary, President of the Board of Works, Hsü Tung, Grand Secretary, and Li Ping-heng, former Governor-General of Szu-chuan.

Imperial Edict of the 13th February last rehabilitated the memories of Hsu Yung-yi, President of the Board of War; Li Shan, President of the Board of Works; Hsu Ching Cheng, Senior Vice-President of the Board of Civil Office; Lien Yuan, Vice-Chancellor of the Grand Council; and Yuan Chang, Vice-President of the Court of Sacrifices, who had been put to death for having protested against the outrageous breaches of international law of last year.

Prince Chuang committed suicide on the 21st February last; Ying Nien and Chao Shu-chiao on the 24th February; Yu Hsien was executed on the 22nd February; Chi Hsiu and Hsü Cheng-yu on the 26th February; Tung Fu-hsiang, General in Kan-su, has been deprived of his office by Imperial Edict of the 13th February last, pending the determination of the final punishment to be inflicted on him.

Imperial Edicts, dated the 29th April and 19th August, 1901, have inflicted various punishments on the provincial officials convicted of the crimes and outrages of last summer.

- 2) An Imperial Edict, promulgated the 19th August, 1901, ordered the suspension of official examinations for five years in all cities where foreigners were massacred or submitted to cruel treatment.

Article 3

So as to make honourable reparation for the assassination of Mr. Sugiyama, Chancellor of the Japanese Legation, His Majesty the Emperor of China, by an Imperial Edict of the 18th June, 1901, appointed Na T'ung, Vice-President of the Board of Finances, to be his Envoy Extraordinary, and specially directed him to convey to His Majesty the Emperor of Japan the expression of the regrets of His Majesty the Emperor of China and of his Government at the assassination of Mr. Sugiyama.

Article 4

The Chinese Government has agreed to erect an expiatory monument in each of the foreign or international cemeteries which were desecrated, and in which the tombs were destroyed.

It has been agreed with the Representatives of the Powers that the Legations interested shall settle the details for the erection of these monuments, China bearing all the expenses thereof, estimated at 10,000 taels, for the cemeteries at Peking and in its neighbourhood, and at 5,000 taels for the cemeteries in the provinces. The amounts have been paid, and the list of these cemeteries is inclosed herewith.

Article 5

China has agreed to prohibit the importation into its territory of arms and ammunition, as well as of materials exclusively used for the manufacture of arms and ammunition.

An Imperial Edict has been issued on the 25th August, forbidding said importation for a term of two years. New Edicts may be issued subsequently extending this by other successive terms of two years in case of necessity recognized by the Powers.

Article 6

By an Imperial Edict dated the 29th May, 1901, His Majesty the Emperor of China agreed to pay the Powers an indemnity of 450,000,000 of Haikwan taels.

This sum represents the total amount of the indemnities for States, Companies, or Societies, private individuals and Chinese, referred to in Article 6 of the note of the 22nd December, 1900.

- 1) These 450,000,000 constitute a gold debt calculated at the rate of the Haikwan tael to the gold currency of each country, as indicated below:—

Haikwan tael =	Marks 3.055
	Austro-Hungary crown 3.595
	Gold dollar 0.743
	Francs 3.740

Haikwan tael =	£ sterling 3s.
	Yen 1.407
	Netherlands florin 1.796
	Gold rouble (17.434 dolias fine) 1.412

This sum in gold shall bear interest at 4 per cent. per annum, and the capital shall be reimbursed by China in thirty-nine years in the manner indicated in the annexed plan of amortization. Capital and interest shall be payable in gold or at the rates of exchange corresponding to the dates at which the different payments fall due.

The amortization shall commence the 1st January, 1902, and shall finish at the end of the year 1940. The amortizations are payable annually, the first payment being fixed on the 1st January, 1903.

Interest shall run from the 1st July, 1901, but the Chinese Government shall have the right to pay off within a term of three years, beginning January 1902, the arrears of the first six months ending the 31st December, 1901, on condition, however, that it pays compound interest at the rate of 4 per cent. a year on the sums the payment of which shall have been thus deferred.

Interest shall be payable semi-annually, the first payment being fixed on the 1st July, 1902.

2) The service of the debt shall take place in Shanghai in the following manner:—

Each Power shall be represented by a Delegate on a Commission of bankers authorized to receive the amount of interest and amortization which shall be paid to it by the Chinese authorities designated for that purpose, to divide it among the interested parties, and to give a receipt for the same.

3) The Chinese Government shall deliver to the Doyen of the Diplomatic Corps at Peking a bond for the lump sum, which shall subsequently be converted into fractional bonds bearing the signature of the Delegates of the Chinese Government designated for that purpose. This operation and all those relating to issuing of the bonds shall be performed by the above-mentioned Commission, in accordance with the instructions which the Powers shall send their Delegates.

4) The proceeds of the revenues assigned to the payment of the bonds shall be paid monthly to the Commission.

5) The revenues assigned as security for the bonds are the following:—

a) The balance of the revenues of the Imperial Maritime Customs, after payment of the interest and amortization of preceding loans secured on these revenues, plus the proceeds of the raising to 5 per cent. effective of the present tariff of maritime imports, including articles until now on the free list, but exempting rice, foreign cereals, and flour, gold and silver bullion and coin.

b) The revenues of the native Customs, administered in the open ports by the Imperial Maritime Customs.

c) The total revenues of the salt gabelle, exclusive of the fraction previously set aside for other foreign loans.

6) The raising of the present tariff on imports to 5 per cent. effective is agreed to on the conditions mentioned below. It shall be put in force two months after the signing of the present Protocol, and no exceptions shall be made except for merchandize in transit not more than ten days after the said signing.

a) All duties levied on imports ad valorem shall be converted as far as possible and as soon as may be into specific duties.

This conversion shall be made in the following manner:—

The average value of merchandize at the time of their landing during the three years 1897, 1898, and 1899, that is to say, the market price less the amount of import duties and incidental expenses, shall be taken as the basis for the valuation of merchandize.

Pending the result of the work of conversion, duties shall be levied ad valorem.

b) The beds of the Rivers Whangpoo and Peiho shall be improved with the financial participation of China.

Article 7

The Chinese Government has agreed that the quarter occupied by the Legations shall be considered as one specially reserved for their use and placed under their exclusive control, in which Chinese shall not have the right to reside, and which may be made defensible.

The limits of this quarter have been fixed as follows on the annexed plan.

- On the east, Ketteler Street (10, 11, 12).
- On the north, the line, 5, 6, 7, 8, 9, 10.
- On the west, the line 1, 2, 3, 4, 5.

- On the south, the line 12—1, drawn along the exterior base of the tartar wall, and following the line of the bastions.

In the Protocol annexed to the letter of the 16th January, 1901, China recognized the right of each Power to maintain a permanent guard in the said quarter for the defence of its Legation.

Article 8

The Chinese Government has consented to raze the forts of Taku, and those which might impede free communication between Peking and the sea. Steps have been taken for carrying this out.

Article 9

The Chinese Government conceded the right to the Powers in the Protocol annexed to the letter of the 16th January, 1901, to occupy certain points, to be determined by an Agreement between them for the maintenance of open communication between the capital and the sea. The points occupied by the Powers are:—

Huang-tsun, Lang-fang, Yang-tsun, Tien-tsin, Chun-liang-Cheng, Tong-ku, Lu-tai, Tong-shan, Lan-chou, Chang-li, Chin-wang Tao, Shan-hai Kuan.

Article 10

The Chinese Government has agreed to post and to have published during two years in all district cities the following Imperial Edicts:—

- 1) Edict of the 1st February, 1901, prohibiting for ever under pain of death, membership in any anti-foreign society.
- 2) Edicts of the 13th and 21st February, 29th April and 19th August, 1901, enumerating the punishments inflicted on the guilty.
- 3) Edict of the 19th August, 1901, prohibiting examinations in all cities where foreigners were massacred or subjected to cruel treatment.
- 4) Edicts of the 1st February, 1901, declaring all Governors-General, Governors, and provincial or local officials responsible for order in their respective districts, and that in case of new anti-foreign troubles or other infractions of the Treaties which shall not be immediately repressed and the authors of which shall not have been punished, these officials shall be immediately dismissed without possibility of being given new functions or new honours.

The posting of these Edicts is being carried on throughout the Empire.

Article 11

The Chinese Government has agreed to negotiate the amendments deemed necessary by the foreign Governments to the Treaties of Commerce and Navigation and the other subjects concerning commercial relations with the object of facilitating them.

At present, and as a result of the stipulation contained in Article 6 concerning the indemnity, the Chinese Government agrees to assist in the improvement of the courses of the Rivers Peiho and Whang-poo, as stated below:—

- 1) The works for the improvement of the navigability of the Peiho, begun in 1898 with the co-operation of the Chinese Government, have been resumed under the direction of an International Commission. As soon as the Administration of Tien-tsin shall have been handed back to the Chinese Government it will be in a position to be represented on this Commission, and will pay each year a sum of 60,000 Haikwan taels for maintaining the works.
- 2) A Conservancy Board, charged with the management and control of the works for straightening the Whangpoo and the improvement of the course of that river, is hereby created.

The Board shall consist of members representing the interests of the Chinese Government and those of foreigners in the shipping trade of Shanghai.

The expenses incurred for the works and the general management of the undertaking are estimated at the annual sum of 460,000 Haikwan taels for the first twenty years. This sum shall be supplied in equal portions by the Chinese Government and the foreign interests concerned.

Article 12

An Imperial Edict of the 24th July, 1901, reformed the Office of Foreign Affairs, Tsung-li Yamen, on the lines indicated by the Powers, that is to say, transformed it into a Ministry of Foreign Affairs, Wai Wu Pu, which takes precedence over the six other Ministries of State; the same Edict appointed the principal Members of this Ministry.

An agreement has also been reached concerning the modification of Court ceremonial as regards the reception of foreign Representatives, and has been the subject of several notes from the Chinese Plenipotentiaries, the substance of which is embodied in a Memorandum herewith annexed.

Finally, it is expressly understood that as regards the declarations specified above and the annexed documents originating with the foreign Plenipotentiaries, the French text only is authoritative.

The Chinese Government having thus complied to the satisfaction of the Powers with the conditions laid down in the above-mentioned note of the 22nd December, 1900, the Powers have agreed to accede to the wish of China to terminate the situation created by the disorders of the summer of 1900. In consequence thereof, the foreign Plenipotentiaries are authorized to declare in the names of their Governments that, with the exception of the Legation guards mentioned in Article VII, the international troops will completely evacuate the city of Peking on the 17th September, 1901, and, with the exception of the localities mentioned in Article IX, will withdraw from the Province of Chihli on the 22nd September, 1901.

The present final Protocol has been drawn up in twelve identical copies, and signed by all the Plenipotentiaries of the contracting countries. One copy shall be given to each of the foreign Plenipotentiaries, and one copy shall be given to the Chinese Plenipotentiaries.

(Signed) A. VON MUMM	B. J. DE CÓLOGAN	ERNEST SATOW	F. M. KNOBEL
M. CZIKANN	W. W. ROCKHILL	SALVAGO RAGGI	M. DE GIERS
JOOSTENS	BEAU	JUTARO KOMURA [小村壽太郎]	
(Signed) YI K'UANG [奕劻]	LI HUNG-CHANG [李鴻章]		

辛丑條約

一九〇一年九月七日，光緒二十七年七月二十五日，北京。

大清欽命全權大臣便宜行事總理外務部事務和碩慶親王；

大清欽差全權大臣便宜行事太子太傅文華殿大學士北洋大臣直隸總督部堂一等肅毅伯李鴻章；

大德欽差駐扎中華便宜行事大臣穆默；

大奧欽差駐扎中華便宜行事全權大臣齊乾

大比欽差駐扎中華便宜行事全權大臣姚士登；

大日欽差駐扎中華全權大臣葛絡乾；

大美國欽差特辦議和事宜全權大臣柔克義；

大法欽差全權大臣駐扎中國京都總理本國事務便宜行事鮑渥；

大英欽差便宜行事全權大臣薩道義；

大義欽差駐扎中華大臣世襲侯爵薩爾瓦葛；

大日本國欽差全權大臣小村壽太郎；

大和欽差駐扎中華便宜行事全權大臣克羅伯；

大俄欽命全權大臣內廷大夫格爾思；

今日會同聲明，核定大清國按西曆一千九百年十二月二十二日，即中曆光緒二十六年十一月初一日文內各款，當經大清國大皇帝于西曆一千九百年十二月二十七日，即中曆光緒二十六年十一月初六日，降旨全行照允，足適諸國之意妥辦（附件一）。

第一款 （一）大德國欽差男爵克大臣被戕害一事，前於西曆本年六月初九日，即中曆四月二十三日奉諭旨附件二，欽派醇親王載灃為頭等專使大臣，赴大德國大皇帝前，代表大清國大皇帝暨國家惋惜之意。醇親王已遵旨於西曆本年七月十二日，即中曆五月二十七日自北京起程。

（二）大清國國家業已聲明，在遇害處所豎立銘志之碑，與克大臣品位相配，列敘大清國大皇帝惋惜凶事之旨，書以辣丁德漢各文。前於西曆本年七月二十二日，即中曆六月初七日，經大清國欽差全權大臣，文致大德國欽差全權大臣附件三，現於遇害處所，建立牌坊一座，足滿街衢，已於西曆本年六月二十五日，即中曆五月初十日興工。

第二款 （一）懲辦傷害諸國國家及人民之首禍諸臣，將西曆本年二月十三、二十一等日，即中曆上年十二月二十五、本年正月初三等日，先後降旨所定罪名開列於後附件四、五、六：端郡王載漪、輔國公載瀾均定斬監候罪名，又約定，如皇上以為應加恩貸其一死，即發往新疆永遠監禁，永不減免。莊親王載勳、都察院左都禦史英年、刑部尚書趙舒翹均定為賜令自盡。山西巡撫毓賢、禮部尚書啟秀、刑部左侍郎徐承煜均定為即行正法。協辦大學士吏部尚書剛毅、大學士徐桐、前四川總督李秉衡均已身故，追奪原官，即

行革職。又兵部尚書徐用儀、戶部尚書立山、吏部左侍郎許景澄、內閣學士兼禮部侍郎銜聯元、太常寺卿袁昶，因上年力駁殊悖諸國義法極惡之罪被害，於西曆本年二月十三日，即中曆上年十二月二十五日，奉諭開復原官，以示昭雪附件七。莊親王載勳已於西曆本年二月二十一日，即中曆正月初三日；英年趙舒翹已於二十四日，即初六日，均自盡。毓賢已於二十二日，即初四日，啟秀徐承煜已於二十六日，即初八日，均正法。又西曆本年二月十三日，上諭將甘肅提督董福祥革職，俟應得罪名定讞懲辦。西曆本年四月二十九、六月初三、八月十九等日，即中曆三月十一、四月十七、七月初六等日，先後降旨將上年夏間凶慘案內，所有承認獲咎之各外省官員分別懲辦。

(二) 西曆本年八月十九日，即中曆二十七年七月初六日，上諭將諸國人民遇害被虐之城鎮，停止文武各等考試五年附件八。

第三款 因大日本國使館書記生杉山彬被害，大清國大皇帝從優榮之典，已於西曆本年六月十八日，即中曆五月初三日，降旨簡派戶部侍郎那桐為專使大臣，赴大日本國大皇帝前，代表大清國大皇帝及國家惋惜之意附件九。

第四款 大清國國家允定在於諸國被汙瀆及挖掘各墳塋，建立滌垢雪侮之碑，已與諸國全權大臣會同商定，其碑由各該國使館督建，並由中國國家付給估算各費銀兩。京師一帶每處一萬兩，外省每處五千兩，此項銀兩業已付清。茲將建碑之墳塋，開列清單附後附件十。

第五款 大清國國家允定不準將軍火暨專為製造軍火各種器料運入中國境內，已於西曆本年八月二十五日，即中曆二十七年七月十二日，降旨禁止進口二年，嗣後如諸國以為有仍應續禁之處，亦可降旨將二年之限續展附件十一。

第六款 按照西曆本年五月二十九日，即中曆四月十二日上諭，大清國大皇帝允定，付諸國償款海關銀四百五十兆兩。此款系西曆一千九百年十二月二十二日，即中曆光緒二十六年十一月初一日條款內第六款所載之各國各會各人及中國人民之賠償總數附件十二。

(甲) 此四百五十兆系照海關銀兩市價易為金款，此市價按諸國各金錢之價易金如左：海關銀一兩，即德國三馬克零五五，即奧國三克勒尼五九五，即美國圓零七四二，即法國三佛郎克七五，即英國三先零，即日本一圓四零七，即荷蘭國一弗樂林七九六，即俄國一魯布四一二，俄國魯布按金平算，即十七多理亞四二四。此四百五十兆按年息四厘，正本由中國分三十九年按後附之表各章清還附件十三。本息用金付給，或按應還日期之市價易金付給，還本於一千九百零二年正月初一日起，一千九百四十年終止。還本各款應按每屆一年付還，初次定於一千九百零三年正月初一日付還，利息由一千九百零一年七月初一日起算。惟中國國家亦可將所欠首六個月至一千九百零一年十二月三十一日之息，展在自一千九百零二年正月初一日起，於三年內付還。但所展息款之利，亦應按年四厘付清。又利息每屆六個月付給，初次定於一千九百零二年七月初一日付給。

(乙) 此次款一切事宜，均在上海辦理如後，諸國各派銀行董事一名，會同將所有由該管之中國官員付給之本利總數收存，分給有干涉者，該銀行出付回執。

(丙) 由中國國家將全數保票一紙，支付駐京諸國欽差領銜大臣手內。此保票以後分作零票，每票上各由中國特派之官員畫押。此節以及發票一切事宜，應由以上所述之銀行董事，各遵本國飭令而行。

(丁) 付還保票財源各進款，應每月給銀行董事收存。

(戊) 所定承擔保票之財源開列於後：一、新關各進款俟前已作為擔保之借款各本利付給之後餘剩者，又進口貨稅增至切實值百抽五，將所增之數加之，所有向例進口免稅各貨，除外國運來之米及各雜色糧面，並金銀以及金銀各錢外，均應列入切實值百抽五貨內。二、所有常關各進款，在各通商口岸之常關均歸新關管理。三、所有鹽政各進項，除歸還前泰西借款一宗外，餘剩一併歸入。至進口貨稅增至切實值百抽五，諸國現允可行，惟須二端：一、將現在照估價抽收進口各稅，凡能改者，皆當急速改為按件抽稅幾何。定辦改稅一層如後：為估算貨價之基，應以一千八百九十七、八、九三年卸貨時各貨牽算價值，乃開除進口稅及雜費總數之市價。其未改以前各該稅，仍照估價徵收。二、北河黃浦兩水路均應改善，中國國家即應撥款相助。增稅一層，俟此條款畫押日兩個月後，即行開辦。除在此畫押日期後至遲十日已在途間之貨外，概不得免抽。

第七款 大清國國家允定各使館境界以為專與住用之處，並獨由使館管理，中國人概不准在界內居住，亦可自行防守。使館界線於附件之圖上標明如後附件十四：東面之線系崇文門大街，圖上十、十一、十二等字，北面圖上系五、六、七、八、九、十等字之線，西面圖上系一、二、三、四、五等字之線，南面圖上系十二、一等字之線，此線循城牆南址隨城堞而畫。按照西

- 曆一千九百零一年正月十六日，即中曆上年十一月二十六日文內後附之條款，中國國家應允諸國分應自主，常留兵隊分保使館。
- 第八款 大清國家應允將大沽炮臺及有礙京師至海通道之各礮台，一律削平，現已設法照辦。
- 第九款 按照西曆一千九百零一年正月十六日，即中曆上年十一月二十六日文內後附之條款，中國國家應允由諸國分應主辦會同酌定數處，留兵駐守，以保京師至海通道無斷絕之虞。今諸國駐守之處，系黃村郎坊楊村天津軍糧城坡沽炮臺唐山灤州昌黎秦皇島山海關。
- 第十款 大清國家允定兩年之久，在各府廳州縣將以後所述之上諭頒行佈告：
- 一、西曆本年二月初一日，即中曆上年十二月十三日，上諭以永禁或設或入與諸國仇敵之會，違者皆斬附件十五。
 - 二、西曆本年二月十三、二十一、四月二十九、八月十九等日，即中曆上年十二月二十五、本年正月初三、三月十一、七月初六等日，上諭一道，犯罪之人如何懲辦之處，均一一載明。
 - 三、西曆本年八月十九日，即中曆七月初六日，上諭以諸國人民遇害被虐各城鎮，停止文武各等考試。
 - 四、西曆本年二月初一日，即中曆上年十二月十三日，上諭以各省督撫文武大吏暨有司各官，於所屬境內均有保平安之責。如復滋傷害諸國人民之事，或再有違約之行，必須立時彈壓懲辦，否則該管之員，即行革職，永不敘用，亦不得開脫別給獎敘附件十六。以上諭旨，現於中國全境漸次張貼。
- 第十一款 大清國家允定將通商行船各條約內，諸國視為應行商改之處，及有關通商各他事宜，均行議商，以期妥善簡易。現按照第六款賠償事宜，約定中國國家應允襄辦改善北河黃浦兩水路，其襄辦各節如左：
- 一、北河改善河道，在一千八百九十八年會同中國國家所興各工，近由諸國派員重修，一俟治理天津事務交還之後，即可由中國國家派員與諸國所派之員會辦。中國國家應付海關銀每年六萬兩，以養其工。
 - 二、現設立黃浦河道局，經管整理改善水道各工，所派該局各員，均代中國暨諸國保守在滬所有通商之利益。預估後二十年該局各工及經營各費，應每年支用海關銀四十六萬兩，此數平分，半由中國國家付給，半由外國各干涉者出資。該局員差並權責及進款之詳細各節，皆於後附檔內列明附件十七。
- 第十二款 西曆本年七月二十四日，即中曆六月初九日，降旨將總理各國事務衙門，按照諸國酌定改為外務部，班列六部之前，此上諭內已簡派外務部各王大臣矣附件十八。且變通諸國欽差大臣觀見禮節，均已商定，由中國全權大臣屢次照會在案，此照會在後附之節略內述明附件十九。茲特為議明以上所述各語，及後附諸國全權大臣所發之文牘，均系以法文為憑。大清國家既如此，按以上所述，西曆一千九百年十二月二十二日，即中曆光緒二十六年十一月初一日文內存款，足適諸國之意妥辦，則中國願將一千九百年夏間變亂所生之局勢完結，諸國亦照允隨行。是以諸國全權大臣，現奉各本國政府之命，代為聲明，除第七款所述之防守使館兵隊外，諸國兵隊即於西曆一千九百零一年九月十七日，即中曆光緒二十七年八月初五日，全由東城撤退；並除第九款所述各處外，亦於西曆一千九百零一年九月二十二日，即中曆光緒二十七年八月初十日由直隸省撤退。今將以上條款繕定同文十二份，均由諸中國全權大臣畫押，諸國全權大臣各存一份，中國全權大臣收存一份。
- 一千九百零一年九月初七日
光緒二十七年七月二十五日
在北京定立

■ Editor's note =====

In Chinese, the Boxer Protocol is also called Peking Protocol (*Beijing yidingshu* 北京議定書), likewise in Japanese: *Pekin giteisho* 北京議定書.

Treaty of Portsmouth

The Emperor of Japan on the one part, and the Emperor of all the Russias, on the other part, animated by a desire to restore the blessings of peace, have resolved to conclude a treaty of peace, and have for this purpose named their plenipotentiaries, that is to say, for his Majesty the Emperor of Japan, Baron Komura Jutarō, Jusami, Grand Cordon of the Imperial Order of the Rising Sun, his Minister for Foreign Affairs, and his Excellency Takahira Kogoro, Imperial Order of the Sacred Treasure, his Minister to the United States, and his Majesty the Emperor of all the Russias, his Excellency Sergius Witte, his Secretary of State and President of the Committee of Ministers of the Empire of Russia, and his Excellency Baron Roman Rosen, Master of the Imperial Court of Russia, his Majesty's Ambassador to the United States, who, after having exchanged their full powers, which were found to be in good and due form, and concluded the following articles:

Article 1

There shall henceforth be peace and amity between their Majesties the Emperor of Japan and the Emperor of all the Russias, and between their respective States and subjects.

Article 2

The Imperial Russian Government, acknowledging that Japan possesses in Korea paramount political, military and economical interests engages neither to obstruct nor interfere with measures for guidance, protection and control which the Imperial Government of Japan may find necessary to take in Korea. It is understood that Russian subjects in Korea shall be treated in exactly the same manner as the subjects and citizens of other foreign Powers; that is to say, they shall be placed on the same footing as the subjects and citizens of the most favored nation. It is also agreed that, in order to avoid causes of misunderstanding, the two high contracting parties will abstain on the Russian-Korean frontier from taking any military measure which may menace the security of Russian or Korean territory.

Article 3

Japan and Russia mutually engage:

First. -- To evacuate completely and simultaneously Manchuria, except the territory affected by the lease of the Liaotung Peninsula, in conformity with the provisions of the additional article I annexed to this treaty, and,

Second. -- To restore entirely and completely to the exclusive administration of China all portions of Manchuria now in occupation, or under the control of the Japanese or Russian troops, with the exception of the territory above mentioned.

The Imperial Government of Russia declares that it has not in Manchuria any territorial advantages or preferential or exclusive concessions in the impairment of Chinese sovereignty, or inconsistent with the principle of equal opportunity.

Article 4

Japan and Russia reciprocally engage not to obstruct any general measures common to all countries which China may take for the development of the commerce or industry of Manchuria.

Article 5

The Imperial Russian Government transfers and assigns to the Imperial Government of Japan, with the consent of the Government of China, the lease of Port Arthur, Talien and the adjacent territorial waters, and all rights, privileges and concessions connected with or forming part of such lease, and it also transfers and assigns to the Imperial government of Japan all public works and properties in the territory affected by the above-mentioned lease.

The two contracting parties mutually engage to obtain the consent of the Chinese Government mentioned in the foregoing stipulation.

The Imperial Government of Japan, on its part, undertakes that the proprietary rights of Russian subjects in the territory above referred to shall be perfectly respected.

Article 6

The Imperial Russian Government engages to transfer and assign to the Imperial Government of Japan, without compensation and with the consent of the Chinese Government, the railway between Chang-chunfu and Kuanchangtsu and Port Arthur, and all the branches, together with all the rights, privileges and properties appertaining thereto in that region, as well as all the coal mines in said region belonging to or worked for the benefit of the railway. The two high contracting parties mutually engage to obtain the consent of the Government of China mentioned in the foregoing stipulation.

Article 7

Japan and Russia engage to exploit their respective railways in Manchuria exclusively for commercial and industrial purposes and nowise for strategic purposes. It is understood that this restriction does not apply to the railway in the territory affected by the lease of the Liaotung Peninsula.

Article 8

The imperial Governments of Japan and Russia with the view to promote and facilitate intercourse and traffic will as soon as possible conclude a separate convention for the regulation of their connecting railway services in Manchuria.

Article 9

The Imperial Russian Government cedes to the Imperial Government of Japan in perpetuity and full sovereignty the southern portion of the Island of Saghalin and all the islands adjacent thereto and the public works and properties thereon. The fiftieth degree of north latitude is adopted as the northern boundary of the ceded territory. The exact alignment of such territory shall be determined in accordance with the provisions of the additional article II annexed to this treaty.

Japan and Russia mutually agree not to construct in their respective possessions on the Island of Saghalin or the adjacent islands any fortification or other similar military works. They also respectively engage not to take any military measures which may impede the free navigation of the Strait of La Perouse and the Strait of Tartary.

Article 10

It is reserved to Russian subjects, inhabitants of the territory ceded to Japan, to sell their real property and retire to their country, but if they prefer to remain in the ceded territory they will be maintained protected in the full exercise of their industries and rights of property on condition of submitting to the Japanese laws and jurisdiction. Japan shall have full liberty to withdraw the right of residence in or to deport from such territory of any inhabitants who labor under political or administrative disability. She engages, however, that the proprietary rights of such inhabitants shall be fully respected.

Article 11

Russia engages to arrange with Japan for granting to Japanese subjects rights of fishery along the coasts of the Russian possession in the Japan, Okhotsk and Bering Seas.

It is agreed that the foregoing engagement shall not affect rights already belonging to Russian or foreign subjects in those regions.

Article 12

The treaty of commerce and navigation between Japan and Russia having been annulled by the war the Imperial Governments of Japan and Russia engage to adopt as a basis for their commercial relations pending the conclusion of a new treaty of commerce and navigation the basis of the treaty which was in force previous to the present war, the system of reciprocal treatment on the footing of the most favored nation, in which are included import and export duties, customs formalities, transit and tonnage dues and the admission and treatment of agents, subjects and vessels of one country in the territories of the other.

Article 13

As soon as possible after the present treaty comes in force all prisoners of war shall be reciprocally restored. The Imperial Governments of Japan and Russia shall each appoint a special commissioner to take charge of the prisoners. All prisoners in the hands of one Government shall be delivered to and be received by the commissioner of the

other Government or by his duly authorized representative in such convenient numbers and at such convenient ports of the delivering State as such delivering State shall notify in advance to the commissioner of the receiving State.

The Governments of Japan and Russia shall present each other as soon as possible after the delivery of the prisoners is completed with a statement of the direct expenditures respectively incurred by them for the care and maintenance of the prisoner from the date of capture or surrender and up to the time of death or delivery. Russia engages to repay as soon as possible after the exchange of statement as above provided the difference between the actual amount so expended by Japan and the actual amount similarly disbursed by Russia.

Article 14

The present treaty shall be ratified by their Majesties the Emperor of Japan and the Emperor of all the Russias. Such ratification shall be with as little delay as possible, and in any case no later than fifty days from the date of the signature of the treaty, to be announced to the Imperial Governments of Japan and Russia respectively through the French Minister at Tokio and the Ambassador of the United States at St. Petersburg, and from the date of the latter of such announcements shall in all its parts come into full force. The formal exchange of ratifications shall take place at Washington as soon as possible.

Article 15

The present treaty shall be signed in duplicate in both the English and French languages. The texts are in absolute conformity, but in case of a discrepancy in the interpretation the French text shall prevail.

Sub-Articles

In conformity with the provisions of articles 3 and 9 of the treaty of the peace between Japan and Russia of this date the undersigned plenipotentiaries have concluded the following additional articles:

SUB-ARTICLE TO ARTICLE 3

The Imperial Governments of Japan and Russia mutually engage to commence the withdrawal of their military forces from the territory of Manchuria simultaneously and immediately after the treaty of peace comes into operation, and within a period of eighteen months after that date the armies of the two countries shall be completely withdrawn from Manchuria, except from the leased territory of the Liaotung Peninsula. The forces of the two countries occupying the front positions shall first be withdrawn.

The high contracting parties reserve to themselves the right to maintain guards to protect their respective railway lines in Manchuria. The number of such guards shall not exceed fifteen per kilometre and within that maximum number the commanders of the Japanese and Russian armies shall by common accord fix the number of such guards to be employed as small as possible while having in view the actual requirements.

The commanders of the Japanese and Russian forces in Manchuria shall agree upon the details of the evacuation in conformity with the above principles and shall take by common accord the measures necessary to carry out the evacuation as soon as possible, and in any case not later than the period of eighteen months.

SUB-ARTICLE TO ARTICLE 9.

As soon as possible after the present treaty comes into force a committee of delimitation composed of an equal number of members is to be appointed by the two high contracting parties which shall on the spot mark in a permanent manner the exact boundary between the Japanese and Russian possessions on the Island of Saghalin. The commission shall be bound so far as topographical considerations permit to follow the fiftieth parallel of north latitude as the boundary line, and in case any deflections from that line at any points are found to be necessary compensation will be made by correlative deflections at other points. It shall also be the duty of the said commission to prepare a list and a description of the adjacent islands included in the cession, and finally the commission shall prepare and sign maps showing the boundaries of the ceded territory. The work of the commission shall be subject to the approval of the high contracting parties.

The foregoing additional articles are to be considered ratified with the ratification of the treaty of peace to which they are annexed.

In witness whereof the respective plenipotentiaries have signed and affixed seals to the present treaty of peace.

Done at Portsmouth, New Hampshire, this fifth day of the ninth month of the thirty-eighth year of the Meiji, corresponding to the twenty-third day of August, one thousand nine hundred and five (September 5, 1905).

朴茨茅斯條約

正約

日本國皇帝陛下及全俄國皇帝陛下，欲使兩國及兩國之人民回復平和之幸福，決定訂立講和條約，是以日本國皇帝陛下特派外務部大臣從三位勳一等男爵小村壽太郎及駐紮美國待命全權公使從三份勳一等高平小五郎，全俄國皇帝陛下特派內閣總理大臣威特及駐紮美國特命全權大使俄國御前大臣羅善，為全權委員，各將所奉全權文憑校閱，認明懼屬妥善，會上訂立各條款開列於下：

第一條 日本國至帝陛下與全俄國皇帝陛下間，及兩國並兩國臣民間，當和平親睦。

第二條 俄國政府承認日本國于韓國之政治軍事經濟上均有卓絕之利益，加指導保護監理等事，日本政府視為必要者即可措置，不得阻礙干涉。在韓國之俄國臣民，均應按照最惠國之臣民一律看待，不得歧視。

兩締約國為避一切誤解之原因起見，彼此同意于俄韓兩國交界間不得執軍事上之措置，致侵迫俄韓兩國領土之安全。

第三條 日俄兩國互相約定各事如下：

一、除遼東半島租借權所及之地域不計外，所有在滿洲之兵，當按本條約附約第一款所定，由兩國同時全數撤退；

二、除前記之地域外，現被日俄兩國軍隊佔領及管理之滿洲全部，交還中國接收，施行政務；俄國政府聲明在滿洲之領土上利益，或優先的讓與，或專屬的讓與，有侵害中國主權及有違機會均等主義各，一概無之。

第四條 日俄兩國彼此約定，凡中國在滿洲為發達商務工業起見，所有一切辦法列國視為當然者，不得阻礙。

第五條 俄國政府以中國政府之允許，將旅順口、大連灣並其附近領土領水之租借權內一部份之一切權利及所讓與者，轉移與日本政府，俄國政府又將該租界疆域內所造有一切公共營造物及財產，均移讓於日本政府。

兩締約國互約，前條所定者，須商請中國政府允諾。

日本政府允將居住前開各地內之俄國臣民之財產權，當完全尊重。

第六條 俄國政府允將由長春(寬城子)至旅順口之鐵路及一切支路，並在該地方鐵道內所附屬之一切權利財產，以及在該處鐵道內附屬之一切煤礦，或為鐵道利益起見所經營之一切煤礦，不受補償，且以清國政府允許者均移讓於日本政府。

兩締約國互約前條所定者，須商請中國政府承諾。

第七條 日俄兩國約在滿洲地方，各自經營專以商工業為目的之鐵道，決不經營以軍事為目的之鐵道。但遼東半島租借權效力所及地域之鐵道不在此限。

第八條 日本政府及俄國政府，為圖來往輸運均臻便捷起見，妥訂滿洲接續鐵道營業章程，務須從速另訂別約。

第九條 俄國政府允將庫頁島南部及其附近一切島嶼，並各該處之一切公共營造物及財產之主權，永遠讓與日本政府；其讓與地域之北方境界，以北緯五十度為起點，至該處確界須按照本條約附約第二條所載為準。

日俄兩國彼此商允在庫頁島及其附近島嶼之各自所屬領地內，不築造堡壘及類於堡壘之軍事上工作物；又兩國約定凡軍事上之措置有礙于宗穀海峽及韃靼海峽航行自由者，不得施設。

第十條 居住於讓與日本國地域內之俄國人民，可出賣財產，退還本國；若仍欲留住該地域時，當服從日本國之法律及管轄權。至該住民經營事業行使財產，當由日本國完全保護，其有不安本分者，日本國亦當撤回其居住權並放逐之，但該住民之財產當完全尊重。

第十一條 俄國當與日本國協定允准日本國臣民在日本海、鄂霍次克海、白令海之俄國所屬沿岸一帶有經營漁業之權。

前項約束，經雙方同意，不得影響於俄國及週邊臣民在彼處應有之權利。

第十二條 日俄通商航海條約，因此次戰爭作廢，日本國政府及俄國政府允諾以開戰前所施行之條約為本，另訂通商航海新約；其未定以前，所有進口稅、出口稅、關章、子口稅、船鈔，並代表臣民船舶，由此國進彼國領土或由彼國進此國領土時之許可及待遇，均照相待最優之國辦理。

第十三條 本條約一經施行，速將一切俘虜彼此交還，由日俄兩政府各派接收俘虜之特別委員一名專司其事，彼此送還時，應由交犯國將在該國某處口岸可交還人數若干，預先知照收犯國，即由兩國專派員或該員所派之有權代表員照以前通知之口岸人數，彼此交收。

日俄兩國政府一俟交還俘虜完畢後，將虜犯自被擄或投降之日起至死亡或交換之日止，所有因照管：及留養該犯之一切費用細帳互相交換後，俄國政府應將日本實用數目中，除去俄國

實用數目，尚差若干，當由俄國從速償還日本。

第十四條 本條約當由日本國皇帝陛下及全俄國皇帝陛下批准，從速在華盛頓互換，自簽字之日起，無論如何當於五十日以內，由駐紮日本之法國公使及駐紮俄國之美國大使，各通知駐在國政府，宣佈之後，本條約即全部生效。

第十五條 本條約繕就英文法文各兩本，分別簽字，其本文雖全然符合，設有解釋不同之處，以法文為準。為此兩國全權委員署名蓋印，以昭信守。

明治三十八年九月五日

俄曆一九〇五年八月二十三日

小村壽太郎

高平小五郎

威特

羅善

附約

口俄兩國按照本口所訂講和條約第三條及第九條所載，由兩國全權委員另立附約如下，

第一條 此條應附於正約第三條。日俄兩國政府彼此商允，一候講和條約施行後即將滿洲地域內軍隊同時開始撤退；自講和條約施行之日起，以十八個月為限，所有兩國在滿洲之軍隊除遼東半島租借地外，一律撤退。

兩國佔領障地之前敵軍隊當先行撤退。

兩訂約國可留置守備兵保護滿洲各自之鐵道線路，至守備兵人數，每一公里不過十五名之數，由此數內，日俄兩國軍司令官可因時酌減，以至少足用之數為率。

滿洲之日本國及俄國軍司令官，可遵照以上所定，協商撤兵細目，並以必要之方法從速實行撤兵，無論如何不得逾十八個月之限。

第二條 此條應附正約第九條。兩訂約國一俟本約施行後須從速各派數目相等之劃界委員，將庫頁島之俄日兩國所屬確界劃清，以垂久遠。劃界委員應就地形以北緯五十度為境界線，倘遇有不能直劃必須偏出緯度以外時，則偏出緯度若干，當另在他處偏入緯度內若干以補償之。至讓界附近之島嶼，該委員等應備表及詳細書，並將所劃讓地界線繪圖簽名，呈由兩訂約國政府批准。

以上所增條款，當其附屬之講和正約批准時准。

明治三十八年九月五日

俄曆一九〇五年八月二十三日

小村壽太郎

高平小五郎

威特 [Witte]

羅善 [Rosen] 在樸資茅斯

■ Editor's note =====

In Japanese, the Treaty of Portsmouth is called *Pōtsumasu Joyaku* ポーツマス条約 or *Nichi Ro Kōwa Joyaku* 日露講和条約.

Japan's "21 Demands" to China

Group I

The Japanese Government and the Chinese Government, being desirous to maintain the general peace in the Far East and to strengthen the relations of amity and good neighbourhood existing between the two countries, agree to the following articles:

Article 1 The Chinese Government engage to give full assent to all matters that the Japanese Government may hereafter agree with the German Government respecting the disposition of all the rights, interests and concessions, which, in virtue of treaties or otherwise, Germany possesses vis-à-vis China in relation to the province of Shantung.

Article 2 The Chinese Government engage that, within the province of Shantung or along its coast, no territory or island will be ceded or leased to any other Power, under any pretext whatever.

Article 3 The Chinese Government agree to Japan's building a railway connecting Chefoo or Lungkow with the Kiaochou Tsinanfu Railway.

Article 4 The Chinese Government engage to open of their own accord, as soon as possible, certain important cities and towns in the Province of Shantung for the residence and commerce of foreigners. The places to be so opened shall be decided upon in a separate agreement.

Group II

The Japanese Government and the Chinese Government, in view of the fact that the Chinese Government has always recognized the predominant position of Japan in South Manchuria and Eastern Inner Mongolia, agree to the following articles:

- Article 1 The two contracting Parties mutually agree that the term of the lease of Port Arthur and Dairen and the term respecting the South Manchuria Railway and the Antung-Mukden Railway shall be extended to a further period of 99 years respectively.
- Article 2 The Japanese subjects shall be permitted in South Manchuria and Eastern Inner Mongolia to lease or own land required either for erecting buildings for various commercial and industrial uses or for farming.
- Article 3 The Japanese subjects shall have liberty to enter, reside, and travel in South Manchuria and Eastern Inner Mongolia, and to carry on business of various kinds commercial, industrial, and otherwise.
- Article 4 The Chinese Government grant to the Japanese subjects the right of mining in South Manchuria and Eastern Inner Mongolia. As regards the mines to be worked, they shall be decided upon in a separate agreement.
- Article 5 The Chinese Government agree that the consent of the Japanese Government shall be obtained in advance: (1) whenever it is proposed to grant to other nationals the right of constructing a railway or to obtain from other nationals the supply of funds for constructing a railway in South Manchuria and Eastern Inner Mongolia, and (2) whenever a loan is to be made with any other Power, under security of the taxes of South Manchuria and Eastern Inner Mongolia.
- Article 6 The Chinese Government engage that whenever the Chinese Government need the service of political, financial, or military advisers or instructors in South Manchuria or in Eastern Inner Mongolia, Japan shall first be consulted.
- Article 7 The Chinese Government agree that the control and management of the Kirin-Chungchun Railway shall be handed over to Japan for a term of 99 years dating from the signing of this treaty.

Group III

The Japanese Government and the Chinese Government, having regard to the close relations existing between Japanese capitalists and the Han-Yeh-Ping Company and desiring to promote the common interests of the two nations, agree to the following articles:

- Article 1 The two Contracting Parties mutually agree that when the opportune moment arrives the Han-Yeh-Ping Company shall be made a joint concern of the two nations, and that, without the consent of the Japanese Government, the Chinese Government shall not dispose or permit the Company to dispose of any right or property of the Company.
- Article 2 The Chinese Government engage that, as a necessary measure for protection of the invested interests of Japanese capitalists, no mines in the neighbourhood of those owned by the Han-Yeh-Ping Company shall be permitted, without the consent of the said Company, to be worked by anyone other than the Said Company; and further that whenever it is proposed to take any other measure which may likely affect the interests of the said Company directly or indirectly, the consent of the said Company shall first be obtained.

Group IV

- Article 1 The Japanese Government and the Chinese Government, with the object of effectively preserving the territorial integrity of China, agree to the following article: The Chinese Government engage not to cede or lease to any other Power any harbour or bay or any island along the coast of China.

Group V

- Article 1 The Chinese Central Government to engage influential Japanese as political, financial, and military advisers.
- Article 2 The Chinese Government to grant the Japanese hospitals, temples, and schools in the interior of China the right to own land.
- Article 3 In the face of many police disputes which have hitherto arisen between Japan and China, causing no little annoyance the police in localities (in China), where such arrangement: are necessary, to be placed under joint Japanese and Chinese administration, or Japanese to be employed in police office in such localities, so as to help at the same time the improvement of the Chinese Police Service.

- Article 4 China to obtain from Japan supply of a certain quantity of arms, or to establish an arsenal in China under joint Japanese and Chinese management and to be supplied with experts and materials from Japan.
- Article 5 In order to help the development of the Nanchang-Kiukiang Railway, with which Japanese capitalists are so closely identified, and with due regard to the negotiations which have been pending between Japan and China in relation to the railway question in South China, China to agree to give to Japan the right of constructing a railway to connect Wuchang with the Kiukiang-Nanchang and Hangchou and between Nanchang and Chaochou.
- Article 6 In view of the relations between the Province of Fukien and Formosa and of the agreement respecting the non-alienation of that province, Japan to be consulted first whenever foreign capital is needed in connection with the railways, mines, and harbour works (including dockyards) in the Province of Fukien.
- Article 7 China to grant to Japanese subjects the right of preaching in China.
- [Jan. 18, 1915]

日本的《二十一條要求》

第一號，關於日本繼承德國在山東的特權，共四款：

1. 日本政府擬向德國政府協定之所有德國關於山東省依據條約或其他關係對中國政府享有一切權力利益讓與等項處分，中國政府概行承認。
2. 凡山東省內並沿海一帶土地及各島嶼，無論以何項名目，概不讓與或租借與他國。
3. 日本建造由煙臺或龍口接連膠濟路線之鐵路。
4. 中國政府從速自開山東省內各主要城市作為商埠。

第二號，關於「日本國在南滿洲及東部內蒙古享有優越地位」，共七款：

1. 兩訂約國互相約定，將旅順、大連租借期限並南滿洲及安奉兩鐵路期限，均展至九十九年為期。
2. 日本臣民在南滿洲及東部內蒙古營造商工業應用房廠，或為耕作，可得其須要土地之租借權和所有權。
3. 日本臣民得在南滿洲及東部內蒙古任意居住往來，並經營商工業各項生意。
4. 中國政府允將南滿洲及東部內蒙古各礦開採權，許與日本臣民。
5. 中國政府如准許他國在南滿洲及東部蒙古建造鐵路或以該地區課稅作抵押他國借款時，應先經日本政府同意而後辦理。
6. 如中國政府在南滿洲及東部內蒙古聘用政治、財政、軍事各顧問教習，必須先嚮日本商議。
7. 中國政府允將吉長鐵路管理經營事宜委任日本政府，其年限自本約畫押之日起，以九十九年為限。

第三號，關於漢冶萍公司，共二款：

1. 俟將來機會相當，將漢冶萍公司作為兩國合辦事業，未經日本政府之同意，所有該公司一切權力產業，中國政府不得自行處分，亦不得使該公司任意處分。
2. 所有屬於漢冶萍公司各礦之附近礦山，如未經該公司同意，一概不准該公司以外之人開採。

第四號，關於「切實保全中國領土」一款：

1. 中國政府允准，所有中國沿岸港灣及島嶼，概不讓與或租與他國。

第五號，共七款：

1. 在中國中央政府，須聘用有力之日本人充當政治、財政、軍事等項顧問(該條袁世凱未直接同意，由段祺瑞執政時通過)。
2. 所有在中國內地所設日本醫院、寺院、學校等，概允其土地所有權。
3. 須將必要地方之警察作為中日合辦，或在此等地方之警察署內須聘用多數日本人，以資全面籌畫改良中國警察機關。
4. 由日本採辦一定數量之軍械(譬如在中國政府所需軍械之半數以上)，或在中國設立日中合辦之軍械廠，聘用日本技師，並採買日本材料。
5. 允將接連武昌與九江、南昌之鐵路，及南昌至杭州、南昌至潮州各鐵路之建築權，許與日本國。
6. 福建省內籌辦鐵路、開礦及整頓海口(船廠在內)，如需外國資本時，先嚮日本協商。
7. 允認日本人在中國有布教之權。

■ Editor's note =====

In Japanese the Twenty-One Demands are called *Taika Nijūikkajō Yokyu* 対華二十一条要求.

Treaty of Versailles ✂

[...]

PART IV: GERMAN RIGHTS AND INTERESTS OUTSIDE GERMANY

[...]

Section II. China

ARTICLE 128

Germany renounces in favour of China all benefits and privileges resulting from the provisions of the final Protocol signed at Peking on September 7, 1901, and from all annexes, notes and documents supplementary thereto. She likewise renounces in favour of China any claim to indemnities accruing thereunder subsequent to March 14, 1917.

ARTICLE 129

From the coming into force of the present Treaty the High Contracting Parties shall apply, in so far as concerns them respectively:

1. The Arrangement of August 29, 1902, regarding the new Chinese customs tariff;
2. The Arrangement of September 27, 1905, regarding Whang-Poo (黄浦), and the provisional supplementary Arrangement of April 4, 1912. China, however, will no longer be bound to grant to Germany the advantages or privileges which she allowed Germany under these Arrangements.

ARTICLE 130

Subject to the provisions of Section VIII of this Part, Germany cedes to China all the buildings, wharves and pontoons, barracks, forts, arms and munitions of war, vessels of all kinds, wireless telegraphy installations and other public property belonging to the German Government, which are situated or may be in the German Concessions at Tientsin (天津) and Hankow (汉口) or elsewhere in Chinese territory. It is understood, however, that premises used as diplomatic or consular residences or offices are not included in the above cession, and, furthermore, that no steps shall be taken by the Chinese Government to dispose of the German public and private property situated within the so-called Legation Quarter (東交民巷) at Peking (北京) without the consent of the Diplomatic Representatives of the Powers which, on the coming into force of the present Treaty, remain Parties to the Final Protocol of September 7, 1901.

ARTICLE 131

Germany undertakes to restore to China within twelve months from the coming into force of the present Treaty all the astronomical instruments which her troops in 1900-1901 carried away from China, and to defray all expenses which may be incurred in effecting such restoration, including the expenses of dismounting, packing, transporting, insurance and installation in Peking.

ARTICLE 132

Germany agrees to the abrogation of the leases from the Chinese Government under which the German Concessions at Hankow and Tientsin are now held. China, restored to the full exercise of her sovereign rights in the above areas, declares her intention of opening them to international residence and trade. She further declares that the abrogation of the leases under which these concessions are now held shall not affect the property rights of nationals of Allied and Associated Powers who are holders of lots in these concessions.

ARTICLE 133

Germany waives all claims against the Chinese Government or against any Allied or Associated Government arising out of the internment of German nationals in China and their repatriation. She equally renounces all claims arising out of the capture and condemnation of German ships in China, or the liquidation, sequestration or control of German properties, rights and interests in that country since August 14, 1917. This provision, however, shall not

affect the rights of the parties interested in the proceeds of any such liquidation, which shall be governed by the provisions of Part X (Economic Clauses) of the present Treaty.

ARTICLE 134

Germany renounces in favour of the Government of His Britannic Majesty the German State property in the British Concession at Shameen (沙面) at Canton (廣州). She renounces in favour of the French and Chinese Governments conjointly the property of the German school situated in the French Concession at Shanghai (上海).

[...]

Section VIII. Shantung

ARTICLE 156

Germany renounces, in favour of Japan, all her rights, title and privileges particularly those concerning the territory of Kiaochow (膠州), railways, mines and submarine cables which she acquired in virtue of the Treaty concluded by her with China on March 6 1898, and of all other arrangements relative to the Province of Shantung (山東). All German rights in the Tsingtao-Tsinanfu Railway (膠濟鐵路), including its branch lines together with its subsidiary property of all kinds, stations, shops, fixed and rolling stock, mines, plant and material for the exploitation of the mines, are and remain acquired by Japan, together with all rights and privileges attaching thereto. The German State submarine cables from Tsingtao (青島) to Shanghai and from Tsingtao to Chefoo (芝罘), with all the rights, privileges and properties attaching thereto, are similarly acquired by Japan, free and clear of all charges and encumbrances.

ARTICLE 157

The movable and immovable property owned by the German State in the territory of Kiaochow, as well as all the rights which Germany might claim in consequence of the works or improvements made or of the expenses incurred by her, directly or indirectly, in connection with this territory, are and remain acquired by Japan, free and clear of all charges and encumbrances.

ARTICLE 158

Germany shall hand over to Japan within three months from the coming into force of the present Treaty the archives, registers, plans, title-deeds and documents of every kind, wherever they may be, relating to the administration, whether civil, military, financial, judicial or other, of the territory of Kiaochow. Within the same period Germany shall give particulars to Japan of all treaties, arrangements or agreements relating to the rights, title or privileges referred to in the two preceding Articles.

[...]

■ Editor's note =====

The Treaty of Versailles (in French: *Traité de Versailles*, in Chinese: *Fanersai tiaoyue* 凡爾賽條約 or *Fanersai heyue* 凡爾賽和約, in Japanese *Versaiyu Joyaku* ヴェルサイユ条約) was signed on June 28, 1919 during the Paris Peace Conference which took place between Jan. 18, 1919 and Jan. 21, 1920. Members of the Chinese delegation included Lou Tseng-tsiang (陸徵祥), Wellington Koo (顧維鈞), Thomas Wang (王正廷), Alfred Sao-ke Sze (施肇基), Wei Chen-zu (魏宸組), and Cao Ru-lin (曹汝霖), leading members of the large Japanese delegation were Marquess Saionji Kinmochi (西園寺公望), Baron Makino Nobuaki (牧野伸顯), Viscount Chinda Sutemi (珍田捨巳), Matsui Keishirō (松井慶四郎), and Ijuin Hikokichi (伊集院彦吉). Signatories were the German Reich, the Allied Powers (France, the British Empire, Italy, Japan, and the United States) and other countries including Belgium, Bolivia, Brazil, Cuba, Czechoslovakia, Ecuador, Greece, Guatemala, Haiti, Hejaz (= today's Saudi Arabia), Honduras, Liberia, Nicaragua, Panama, Peru, Poland, Portugal, Romania, Siam (= today's Thailand), Uruguay, and Yugoslavia as well as Australia, Canada, South Africa, India, and New Zealand as part of the British Empire. China's representatives refused to sign the treaty because many former German concessions in China were not returned but handed to Japan instead.

Montevideo Convention on the Rights and Duties of States

Signed at Montevideo, 26 December 1933

Entered into Force, 26 December 1934

Article 8 reaffirmed by Protocol, 23 December 1936

CONVENTION ON THE RIGHTS AND DUTIES OF STATES

This treaty was signed at the International Conference of American States in Montevideo, Uruguay on December 26, 1933. It entered into force on December 26, 1934. The treaty discusses the definition and rights of statehood.

The Governments represented in the Seventh International Conference of American States:

Wishing to conclude a Convention on Rights and Duties of States, have appointed the following Plenipotentiaries:

Honduras: MIGUEL PAZ BARAONA; AUGUSTO C. COELLO; LUIS BOGRAN

United States of America: CORDELL HULL; ALEXANDER W. WEDDELL; J. REUBEN CLARK; J. BUTLER WRIGHT; SPRUILLE BRADEN; Miss SOPHONISBA P. BRECKINRIDGE

El Salvador: HECTOR DAVID CASTRO; ARTURO RAMON AVILA; J. CIPRIANO CASTRO

Dominican Republic: TULIO M. CESTERO

Haiti: JUSTIN BARAU; FRANCIS SALGADO; ANTOINE PIERRE-PAUL; EDMOND MANGONES

Argentina: CARLOS SAAVEDRA LAMAS; JUAN F. CAFFERATA; RAMON S. CASTILLO; CARLOS BREBBIA; ISIDORO RUIZ MORENO; LUIS A. PODESTA COSTA; RAUL PREBISCH; DANIEL ANTOKOLETZ

Venezuela: CESAR ZUMETA; LUIS CHURTON; JOSE RAFAEL MONTTLLA

Uruguay: ALBERTO MANE; JUAN JOSE AMEZAGA; JOSE G. ANTUNA; JUAN CARLOS BLANCO; Senora SOFIA A. V. DE DEMICHELI; MARTIN R. ECHEGOYEN; LUIS ALBERTO DE HERRERA; PEDRO MANINI RIOS; MATEO MARQUES CASTRO; RODOLFO MEZZERA; OCTAVIO MORAT; LUIS MORQUIO; TEOFILO PINEYRO CHAIN; DARDO REGULES; JOSE SERRATO; JOSE PEDRO VARELA

Paraguay: JUSTO PASTOR BENITEZ; GERONIMO RIART; HORACIO A. FERNANDEZ; Senorita MARIA F. GONZALEZ

Mexico: JOSE MANUEL PUIG CASAURANC; ALFONSO REYES; BASILIO VADILLO; GENARO V. VASQUEZ; ROMEO ORTEGA; MANUEL J. SIERRA; EDUARDO SUAREZ

Panama: J. D. AROSEMENA; EDUARDO E. HOLGUIN; OSCAR R. MULLER; MAGIN PONS

Bolivia: CASTO ROJAS; DAVID ALVESTEGUI; ARTURO PINTO ESCALIER

Guatemala: ALFREDO SKINNER KLEE; JOSE GONZALEZ CAMPO; CARLOS SALAZAR; MANUEL ARROYO

Brazil: AFRANIO DE MELLO FRANCO; LUCILLO A DA CUNHA BUENO; FRANCISCO LUIS DA SILVA CAMPOS; GILBERTO AMADO; CARLOS CHAGAS; SAMUEL RIBEIRO

Ecuador: AUGUSTO AGUIRRE APARICIO; HUMBERTO ALBORNOZ; ANTONIO PARRA; CARLOS PUIG VILASSAR; ARTURO SCARONE

Nicaragua: LEONARDO ARGUELLO; MANUEL CORDERO REYES; CARLOS CUADRA PASOS

Colombia: ALFONSO LOPEZ; RAIMUNDO RIVAS; JOSE CAMACEO CARRENO

Chile: MIGUEL CRUCHAGA TOCORNAL; OCTAVIO SENORET SILVA; GUSTAVO RIVERA; JOSE RAMON GUTIERREZ; FELIX NIETO DEL RIO; FRANCISCO FIGUEROA SANCHEZ; BENJAMIN COHEN

Peru: ALFREDO SOLE Y MURO; FELIPE BARREDA LAOS; LUIS FERNAN CISNEROS

Cuba: ANGEL ALBERTO GIRAUDY; HERMINIO PORTELL VILA; ALFREDO NOGUEIRA

Who, after having exhibited their Full Powers, which were found to be in good and due order, have agreed upon the following:

Article 1

The state as a person of international law should possess the following qualifications: a) a permanent population; b) a defined territory; c) government; and d) capacity to enter into relations with the other states.

Article 2

The federal state shall constitute a sole person in the eyes of international law.

Article 3

The political existence of the state is independent of recognition by the other states. Even before recognition the state has the right to defend its integrity and independence, to provide for its conservation and prosperity, and consequently to organize itself as it sees fit, to legislate upon its interests, administer its services, and to define the jurisdiction and competence of its courts.

The exercise of these rights has no other limitation than the exercise of the rights of other states according to international law.

Article 4

States are juridically equal, enjoy the same rights, and have equal capacity in their exercise. The rights of each one do not depend upon the power which it possesses to assure its exercise, but upon the simple fact of its existence as a person under international law.

Article 5

The fundamental rights of states are not susceptible of being affected in any manner whatsoever.

Article 6

The recognition of a state merely signifies that the state which recognizes it accepts the personality of the other with all the rights and duties determined by international law. Recognition is unconditional and irrevocable.

Article 7

The recognition of a state may be express or tacit. The latter results from any act which implies the intention of recognizing the new state.

Article 8

No state has the right to intervene in the internal or external affairs of another.

Article 9

The jurisdiction of states within the limits of national territory applies to all the inhabitants.

Nationals and foreigners are under the same protection of the law and the national authorities and the foreigners may not claim rights other or more extensive than those of the nationals.

Article 10

The primary interest of states is the conservation of peace. Differences of any nature which arise between them should be settled by recognized pacific methods.

Article 11

The contracting states definitely establish as the rule of their conduct the precise obligation not to recognize territorial acquisitions or special advantages which have been obtained by force whether this consists in the employment of arms, in threatening diplomatic representations, or in any other effective coercive measure. The territory of a state is inviolable and may not be the object of military occupation nor of other measures of force imposed by another state directly or indirectly or for any motive whatever even temporarily.

Article 12

The present Convention shall not affect obligations previously entered into by the High Contracting Parties by virtue of international agreements.

Article 13

The present Convention shall be ratified by the High Contracting Parties in conformity with their respective constitutional procedures. The Minister of Foreign Affairs of the Republic of Uruguay shall transmit authentic certified copies to the governments for the aforementioned purpose of ratification. The instrument of ratification

shall be deposited in the archives of the Pan American Union in Washington, which shall notify the signatory governments of said deposit. Such notification shall be considered as an exchange of ratifications.

Article 14

The present Convention will enter into force between the High Contracting Parties in the order in which they deposit their respective ratifications.

Article 15

The present Convention shall remain in force indefinitely but may be denounced by means of one year's notice given to the Pan American Union, which shall transmit it to the other signatory governments. After the expiration of this period the Convention shall cease in its effects as regards the party which denounces but shall remain in effect for the remaining High Contracting Parties.

Article 16

The present Convention shall be open for the adherence and accession of the States which are not signatories. The corresponding instruments shall be deposited in the archives of the Pan American Union which shall communicate them to the other High Contracting Parties.

In witness whereof, the following Plenipotentiaries have signed this Convention in Spanish, English, Portuguese and French and hereunto affix their respective seals in the city of Montevideo, Republic of Uruguay, this 26th day of December, 1933.

Reservations

The Delegation of the United States of America, in signing the Convention on the Rights and Duties of States, does so with the express reservation presented to the Plenary Session of the Conference on December 22, 1933, which reservation reads as follows:

The Delegation of the United States, in voting "yes" on the final vote on this committee recommendation and proposal, makes the same reservation to the eleven articles of the project or proposal that the United States Delegation made to the first ten articles during the final vote in the full Commission, which reservation is in words as follows:

"The policy and attitude of the United States Government toward every important phase of international relationships in this hemisphere could scarcely be made more clear and definite than they have been made by both word and action especially since March 4. I [Secretary of State Cordell Hull, chairman of U.S. delegation] have no disposition therefore to indulge in any repetition or rehearsal of these acts and utterances and shall not do so. Every observing person must by this time thoroughly understand that under the Roosevelt Administration the United States Government is as much opposed as any other government to interference with the freedom, the sovereignty, or other internal affairs or processes of the governments of other nations.

"In addition to numerous acts and utterances in connection with the carrying out of these doctrines and policies, President Roosevelt, during recent weeks, gave out a public statement expressing his disposition to open negotiations with the Cuban Government for the purpose of dealing with the treaty which has existed since 1903. I feel safe in undertaking to say that under our support of the general principle of non-intervention as has been suggested, no government need fear any intervention on the part of the United States under the Roosevelt Administration. I think it unfortunate that during the brief period of this Conference there is apparently not time within which to prepare interpretations and definitions of these fundamental terms that are embraced in the report. Such definitions and interpretations would enable every government to proceed in a uniform way without any difference of opinion or of interpretations. I hope that at the earliest possible date such very important work will be done. In the meantime in case of differences of interpretations and also until they (the proposed doctrines and principles) can be worked out and codified for the common use of every government, I desire to say that the United States Government in all of its international associations and relationships and conduct will follow scrupulously the doctrines and policies which it has pursued since March 4 which are embodied in the different addresses of President Roosevelt since that time and in the recent peace address of myself on the 15th day of December before this Conference and in the law of nations as generally recognized and accepted".

The delegates of Brazil and Peru recorded the following private vote with regard to article 11: "That they accept the doctrine in principle but that they do not consider it codifiable because there are some countries which have not

yet signed the Anti-War Pact of Rio de Janeiro 4 of which this doctrine is a part and therefore it does not yet constitute positive international law suitable for codification".

Honduras: M. PAZ BARAONA; AUGUSTO C. COELLO; LUIS BOGRXN

United States of America: ALEXANDER W. WEDDELL; J. BUTLER WRIGUT

El Salvador: HECTOR DAVID CASTRO; ARTURO R. AVILA

Dominican Republic: TULLIO M. CESTERO

Haiti: J. BARAU; F. SALGADO; EDMOND MANGONES; A. PRRE. PAUL

Argentina: CARLOS SAAVEDRA LAMAS; JUAN F. CAFFERATA; RAMON S. CASTILLO; I. RULZ MORENO;
L. A. PODESTA COSTA; D. ANTOKOLETZ

Venezuela: LUIS CHURION; J. R. MONTILLA

Uruguay: A. MANE; JOSE PEDRO VARELA; MATEO MARQUÉS CASTRO; DARDO REGULES; SOFIA
ALVAREZ VIGNOLI DE DEMICHEL; TEOFILO PINEYRO CHAIN; LUIS A. DE HERRERA;
MARTIN R. ECHEYEN; JOSE G. ANTUNA; J. C. BLANCO; PEDRO MANINI RIOS; RODOLFO
MEZZERA; OCTAVIO MORATO; LUIS MOROQUIO; JOSE SERRATO

Paraguay: JUSTO PASTOR BENITEZ; MARIA F. GONZALEZ

Mexico: B. VADILLO; M. J. STERRA; EDUARDO SUAREZ

Panama: J. D. AROSEMENA; MAGIN PONS; EDUARDO E. HOLGUIN

Guatemala: M. ARROYO

Brazil: LUCILLO A. DA CUNHA BUENO; GILBERTO AMADO

Ecuador: A. AGUIRRE APARICIO; H. ALBORNOZ; ANTONIO PARRA V.; C. PUIG V.; ARTURO
SCARONE

Nicaragua: LEONARDO ARGUELLO; M. CORDERO REYES; CARLOS CUADRA PASOS

Colombia: ALFONSO LOPEZ; RAIMUNDO RIVAS

Chile: MIGUEL CRUCHAGA; J. RAMON GUTIERREZ; F. FIGUEROA; F. NIETO DEL RIO; B. COHEN

Peru: (with the reservation set forth) ALFREDO SOLF Y MURO

Cuba: ALBERTO GIRAUDY; HERMINIO PORTELL VILA; ING. NOGUEIRA

■ Editor's note =====

The "Montevideo Convention on the Rights and Duties of States" is translated as *Mengteweiduo guojia quanli yiwu gong-yue* 蒙特維多國家權利義務公約 in Chinese.

The ROC's Declaration of War Against Japan

(December 9, 1941)

Japan's national policy has always aimed at the domination of Asia and mastery of the Pacific. For more than four years China has resolutely resisted Japan's aggression, regardless of suffering and sacrifice, in order not only to maintain her national independence and freedom but also to uphold international law and justice and to promote world peace and human happiness.

China is a peace-loving nation. In taking up arms in self-defense, China entertained the hope that Japan might yet realise the futility of her plans of conquest. Throughout the struggle all the other powers have shown the utmost forbearance likewise in the hope that Japan might one day repent and mend her ways in the interest of peace in the entire Pacific region.

Unfortunately Japan's aggressive capacities prove to be incorrigible. After her long and fruitless attempt to conquer China, Japan, far from showing any signs of penitence, has treacherously launched an attack on China's friends, the United States and Great Britain, thus extending the theater of her aggressive activities and making herself the arch-enemy of justice and world peace.

This latest act of aggression on the part of Japan lays bare her insatiable ambitions and has created a situation that no nation which believes in international good faith and human decency can tolerate.

The Chinese Government hereby formally declares war on Japan. The Chinese Government further declares that all treaties, conventions, agreements and contracts regarding relations between China and Japan are and remain null

and void.

1941, December 9. Chairman, Lin Sen

中華民國政府對日宣戰布告

(1941年12月9日)

日本軍閥夙以征服亞洲，并獨霸太平洋為其國策。數年以來，中國不顧一切犧牲，繼續抗戰，其目的不僅在保衛中國之獨立生存，實欲打破日本之侵略野心，維護國際公法、正義及人類福利與世界和平，此中國政府屢經聲明者也。

中國為酷愛和平之民族，過去四年余之神圣抗戰，原期侵略者之日本于遭受實際之懲創后，終能反省。在此時期，各友邦亦極端忍耐，冀其悔禍，俾全太平洋之和平，得以維持。不料強暴成性之日本，執迷不悟，且更悍然向我英、美諸友邦干釁，擴大其戰爭侵略行動，甘為破壞全人類和平與正義之戎首，逞其侵略無厭之野心。舉凡尊重信義之國家，咸屬忍無可忍。茲特正式對日宣戰，昭告中外，所有一切條約、協定、合同，有涉及中、日間之關係者，一律廢止，特此布告。

中華民國三十年十二月九日

主席 林森

Declaration by United Nations

(Subscribing to the Principles of the Atlantic Charter, January 1, 1942)

A Joint Declaration by the United States of America, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, China, Australia, Belgium, Canada, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, El Salvador, Greece, Guatemala, Haiti, Honduras, India, Luxembourg, Netherlands, New Zealand, Nicaragua, Norway, Panama, Poland, South Africa, Yugoslavia.

The Governments signatory hereto,

Having subscribed to a common program of purposes and principles embodied in the Joint Declaration of the President of United States of America and the Prime Minister of the United Kingdom of Great Britain and Northern Ireland dated August 14, 1941, known as the Atlantic Charter.

Being convinced that complete victory over their enemies is essential to defend life, liberty, independence and religious freedom, and to preserve human rights and justice in their own lands as well as in other lands, and that they are now engaged in a common struggle against savage and brutal forces seeking to subjugate the world,

DECLARE:

- (1) Each Government pledges itself to employ its full resources, military or economic, against those members of the Tripartite Pact and its adherents with which such government is at war.
- (2) Each Government pledges itself to cooperate with the Governments signatory hereto and not to make a separate armistice or peace with the enemies.

The foregoing declaration may be adhered to by other nations which are, or which may be, rendering material assistance and contributions in the struggle for victory over Hitlerism.

DONE at Washington

January First, 1942

[The signatories to the Declaration by United Nations are as listed above.]

聯合國共同宣言

美利堅合眾國、大不列顛及北愛爾蘭聯合王國、蘇維埃社會主義共和國聯盟、中國、澳大利亞、比利時、加拿大、哥斯達黎加、古巴、捷克斯洛伐克、多米尼加共和國、薩爾瓦多、希臘、危地馬拉、海地、洪都拉斯、印度、盧森堡、荷蘭、新西蘭、尼加拉瓜、挪威、巴拿馬、波蘭、南非聯邦和南斯拉夫各國的聯合宣言。

本宣言簽字國政府，對於1941年8月14日美利堅合眾國總統和大不列顛及北愛爾蘭聯合王國首相多座聯合宣言稱為大西洋憲章內所載宗旨與原則的共同方案也已表示贊同，

深信完全戰勝它們的敵對國對於保衛生命、自由、獨立和宗教自由並對於保全其本國和其他各國的人權

和正義非常重要，同時它們現在正對力圖征服世界的野蠻和殘暴的力量從事共同的鬥爭，
茲宣告：
（一）每一征服各自保證對各該政府作戰的三國同盟成員國及其附從者使用其全部資源，不論軍事的或經濟的。
（二）每一政府各自保證與盟國合作，並不與敵人締結單獨停戰協定或協約。
現在或可能將在戰勝希特勒主義的鬥爭中給予物質上援助和貢獻的其他國家得加入上述宣言。
於 1942 年 1 月 1 日訂於華盛頓。

Cairo Declaration

President Roosevelt, Generalissimo Chiang Kai-shek and Prime Minister Mr. Churchill, together with their respective military and diplomatic advisers, have completed a conference in North Africa. The following general statement was issued:

“The several military missions have agreed upon future military operations against Japan. The Three Great Allies expressed their resolve to bring unrelenting pressure against their brutal enemies by sea, land, and air. This pressure is already rising.

“The Three Great Allies are fighting this war to restrain and punish the aggression of Japan. They covet no gain for themselves and have no thought of territorial expansion. It is their purpose that Japan shall be stripped of all the islands in the Pacific which she has seized or occupied since the beginning of the first World War in 1914, and that all the territories Japan has stolen from the Chinese, such as Manchuria, Formosa, and The Pescadores, shall be restored to the Republic of China. Japan will also be expelled from all other territories which she has taken by violence and greed. The aforesaid three great powers, mindful of the enslavement of the people of Korea, are determined that in due course Korea shall become free and independent.

“With these objects in view the three Allies, in harmony with those of the United Nations at war with Japan, will continue to persevere in the serious and prolonged operations necessary to procure the unconditional surrender of Japan.”

開羅宣言

羅斯福總統、蔣委員長、邱吉爾首相、偕同各該國軍事與外交顧問人員，在北非舉行會議，業已完畢，茲發表概括之聲明如下：

三國軍事方面人員關於今後對日作戰計畫，已獲得一致意見，我三大盟國決心以不鬆弛之壓力從海陸空各方面加諸殘暴之敵人，此項壓力已經在增長之中。我三大盟國此次進行戰爭之目的，在於制止及懲罰日本之侵略，三國決不為自己圖利，亦無拓展領土之意思。三國之宗旨，在剝奪日本自從一九一四年第一次世界大戰開始後在太平洋上所奪得或佔領之一切島嶼；在使日本所竊取於中國之領土，例如東北四省(2)、臺灣、澎湖群島等，歸還中華民國；其他日本以武力或貪欲所攫取之土地，亦務將日本驅逐出境；我三大盟國稔知朝鮮人民所受之奴隸待遇，決定在相當時期，使朝鮮自由與獨立。根據以上所認定之各項目標，並與其他對日作戰之聯合國(3)目標相一致，我三大盟國將堅忍進行其重大而長期之戰爭，以獲得日本之無條件投降。

■ Editor's note =====

The Cairo Conference was attended by US President Franklin D. Roosevelt, British Prime Minister Winston Churchill and ROC President Chiang Kai-shek 蔣介石 and took place Nov. 22–26, 1943. The Cairo Declaration (also called “Cairo Communiqué”) was not a treaty, was not signed, and was released via radio broadcast on Dec. 1, 1943. It is called *Kairo sengen* カイロ宣言 in Japanese.

Agreements reached at the Yalta Conference

PROTOCOL OF PROCEEDINGS OF CRIMEA CONFERENCE

The Crimea Conference of the heads of the Governments of the United States of America, the United Kingdom, and the Union of Soviet Socialist Republics, which took place from Feb. 4 to 11, came to the following conclusions:

I. World organization

It was decided:

1. That a United Nations conference on the proposed world organization should be summoned for Wednesday, 25 April, 1945, and should be held in the United States of America.
2. The nations to be invited to this conference should be:
 - (a) the United Nations as they existed on 8 Feb., 1945; and
 - (b) Such of the Associated Nations as have declared war on the common enemy by 1 March, 1945. (For this purpose, by the term "Associated Nations" was meant the eight Associated Nations and Turkey.) When the conference on world organization is held, the delegates of the United Kingdom and United State of America will support a proposal to admit to original membership two Soviet Socialist Republics, i.e., the Ukraine and White Russia.
3. That the United States Government, on behalf of the three powers, should consult the Government of China and the French Provisional Government in regard to decisions taken at the present conference concerning the proposed world organization.
4. That the text of the invitation to be issued to all the nations which would take part in the United Nations conference should be as follows:

"The Government of the United States of America, on behalf of itself and of the Governments of the United Kingdom, the Union of Soviet Socialistic Republics and the Republic of China and of the Provisional Government of the French Republic invite the Government of ----- to send representatives to a conference to be held on 25 April, 1945, or soon thereafter, at San Francisco, in the United States of America, to prepare a charter for a general international organization for the maintenance of international peace and security.

"The above-named Governments suggest that the conference consider as affording a basis for such a Charter the proposals for the establishment of a general international organization which were made public last October as a result of the Dumbarton Oaks conference and which have now been supplemented by the following provisions for Section C of Chapter VI:

C. Voting

- "1. Each member of the Security Council should have one vote.
- "2. Decisions of the Security Council on procedural matters should be made by an affirmative vote of seven members.
- "3. Decisions of the Security Council on all matters should be made by an affirmative vote of seven members, including the concurring votes of the permanent members; provided that, in decisions under Chapter VIII, Section A and under the second sentence of Paragraph 1 of Chapter VIII, Section C, a party to a dispute should abstain from voting.'

"Further information as to arrangements will be transmitted subsequently.

"In the event that the Government of ----- desires in advance of the conference to present views or comments concerning the proposals, the Government of the United States of America will be pleased to transmit such views and comments to the other participating Governments."

Territorial trusteeship:

It was agreed that the five nations which will have permanent seats on the Security Council should consult each other prior to the United Nations conference on the question of territorial trusteeship.

The acceptance of this recommendation is subject to its being made clear that territorial trusteeship will only apply to

- (a) existing mandates of the League of Nations;
- (b) territories detached from the enemy as a result of the present war;
- (c) any other territory which might voluntarily be placed under trusteeship; and

- (d) no discussion of actual territories is contemplated at the forthcoming United Nations conference or in the preliminary consultations, and it will be a matter for subsequent agreement which territories within the above categories will be placed under trusteeship.

[Begin first section published Feb., 13, 1945.]

II. Declaration of liberated Europe

The following declaration has been approved:

The Premier of the Union of Soviet Socialist Republics, the Prime Minister of the United Kingdom and the President of the United States of America have consulted with each other in the common interests of the people of their countries and those of liberated Europe. They jointly declare their mutual agreement to concert during the temporary period of instability in liberated Europe the policies of their three Governments in assisting the peoples liberated from the domination of Nazi Germany and the peoples of the former Axis satellite states of Europe to solve by democratic means their pressing political and economic problems.

The establishment of order in Europe and the rebuilding of national economic life must be achieved by processes which will enable the liberated peoples to destroy the last vestiges of nazism and fascism and to create democratic institutions of their own choice. This is a principle of the Atlantic Charter — the right of all people to choose the form of government under which they will live — the restoration of sovereign rights and self-government to those peoples who have been forcibly deprived of them by the aggressor nations.

To foster the conditions in which the liberated people may exercise these rights, the three governments will jointly assist the people in any European liberated state or former Axis state in Europe where, in their judgment conditions require,

- (a) to establish conditions of internal peace;
- (b) to carry out emergency relief measures for the relief of distressed peoples;
- (c) to form interim governmental authorities broadly representative of all democratic elements in the population and pledged to the earliest possible establishment through free elections of Governments responsive to the will of the people; and
- (d) to facilitate where necessary the holding of such elections.

The three Governments will consult the other United Nations and provisional authorities or other Governments in Europe when matters of direct interest to them are under consideration.

When, in the opinion of the three Governments, conditions in any European liberated state or former Axis satellite in Europe make such action necessary, they will immediately consult together on the measure necessary to discharge the joint responsibilities set forth in this declaration.

By this declaration we reaffirm our faith in the principles of the Atlantic Charter, our pledge in the Declaration by the United Nations and our determination to build in cooperation with other peace-loving nations world order, under law, dedicated to peace, security, freedom and general well-being of all mankind.

In issuing this declaration, the three powers express the hope that the Provisional Government of the French Republic may be associated with them in the procedure suggested.

[End first section published Feb., 13, 1945.]

III. Dismemberment of Germany

It was agreed that Article 12 (a) of the Surrender terms for Germany should be amended to read as follows:

"The United Kingdom, the United States of America and the Union of Soviet Socialist Republics shall possess supreme authority with respect to Germany. In the exercise of such authority they will take such steps, including the complete dismemberment of Germany as they deem requisite for future peace and security."

The study of the procedure of the dismemberment of Germany was referred to a committee consisting of Mr. Anthony Eden, Mr. John Winant, and Mr. Fedor T. Gusev. This body would consider the desirability of associating with it a French representative.

IV. Zone of occupation for the French and control council for Germany

It was agreed that a zone in Germany, to be occupied by the French forces, should be allocated France. This zone would be formed out of the British and American zones and its extent would be settled by the British and Americans in consultation with the French Provisional Government.

It was also agreed that the French Provisional Government should be invited to become a member of the Allied Control Council for Germany.

V. Reparation

The following protocol has been approved:

PROTOCOL

On the Talks Between the Heads of Three Governments at the Crimean Conference on the Question of the German Reparations in Kind

1. Germany must pay in kind for the losses caused by her to the Allied nations in the course of the war. Reparations are to be received in the first instance by those countries which have borne the main burden of the war, have suffered the heaviest losses and have organized victory over the enemy.

2. Reparation in kind is to be exacted from Germany in three following forms:

- (a) Removals within two years from the surrender of Germany or the cessation of organized resistance from the national wealth of Germany located on the territory of Germany herself as well as outside her territory (equipment, machine tools, ships, rolling stock, German investments abroad, shares of industrial, transport and other enterprises in Germany, etc.), these removals to be carried out chiefly for the purpose of destroying the war potential of Germany.
- (b) Annual deliveries of goods from current production for a period to be fixed.
- (c) Use of German labor.

3. For the working out on the above principles of a detailed plan for exaction of reparation from Germany an Allied reparation commission will be set up in Moscow. It will consist of three representatives — one from the Union of Soviet Socialist Republics, one from the United Kingdom and one from the United States of America.

4. With regard to the fixing of the total sum of the reparation as well as the distribution of it among the countries which suffered from the German aggression, the Soviet and American delegations agreed as follows:

"The Moscow reparation commission should take in its initial studies as a basis for discussion the suggestion of the Soviet Government that the total sum of the reparation in accordance with the points (a) and (b) of the Paragraph 2 should be 22 billion dollars and that 50 per cent should go to the Union of Soviet Socialist Republics."

The British delegation was of the opinion that, pending consideration of the reparation question by the Moscow reparation commission, no figures of reparation should be mentioned.

The above Soviet-American proposal has been passed to the Moscow reparation commission as one of the proposals to be considered by the commission.

VI. Major war criminals

The conference agreed that the question of the major war criminals should be the subject of inquiry by the three Foreign Secretaries for report in due course after the close of the conference.

[Begin second section published Feb. 13, 1945.]

VII. Poland

The following declaration on Poland was agreed by the conference:

"A new situation has been created in Poland as a result of her complete liberation by the Red Army. This calls for the establishment of a Polish Provisional Government which can be more broadly based than was possible before the recent liberation of the western part of Poland. The Provisional Government which is now functioning in Poland should therefore be reorganized on a broader democratic basis with the inclusion of democratic leaders from Poland itself and from Poles abroad. This new Government should then be called the Polish Provisional Government of National Unity.

"M. Molotov, Mr. Harriman and Sir A. Clark Kerr are authorized as a commission to consult in the first instance in Moscow with members of the present Provisional Government and with other Polish democratic leaders from within Poland and from abroad, with a view to the reorganization of the present Government along the above lines. This Polish Provisional Government of National Unity shall be pledged to the holding of free and unfettered elections as soon as possible on the basis of universal suffrage and secret ballot. In these elections all democratic and anti-Nazi parties shall have the right to take part and to put forward candidates.

"When a Polish Provisional of Government National Unity has been properly formed in conformity with the above, the Government of the U.S.S.R., which now maintains diplomatic relations with the present Provisional Government of Poland, and the Government of the United Kingdom and the Government of the United States of America will establish diplomatic relations with the new Polish Provisional Government National Unity, and will

exchange Ambassadors by whose reports the respective Governments will be kept informed about the situation in Poland.

"The three heads of Government consider that the eastern frontier of Poland should follow the Curzon Line with digressions from it in some regions of five to eight kilometers in favor of Poland. They recognize that Poland must receive substantial accessions in territory in the north and west. They feel that the opinion of the new Polish Provisional Government of National Unity should be sought in due course of the extent of these accessions and that the final delimitation of the western frontier of Poland should thereafter await the peace conference."

VIII. Yugoslavia

It was agreed to recommend to Marshal Tito and to Dr. Ivan Subasitch:

- (a) That the Tito-Subasitch agreement should immediately be put into effect and a new government formed on the basis of the agreement.
- (b) That as soon as the new Government has been formed it should declare:
 - (I) That the Anti-Fascist Assembly of the National Liberation (AVNOJ) will be extended to include members of the last Yugoslav Skupstina who have not compromised themselves by collaboration with the enemy, thus forming a body to be known as a temporary Parliament and
 - (II) That legislative acts passed by the Anti-Fascist Assembly of the National Liberation (AVNOJ) will be subject to subsequent ratification by a Constituent Assembly; and that this statement should be published in the communiqué of the conference.

IX. Italo-Yugoslav frontier — Italo-Austrian frontier

Notes on these subjects were put in by the British delegation and the American and Soviet delegations agreed to consider them and give their views later.

X. Yugoslav-Bulgarian relations

There was an exchange of views between the Foreign Secretaries on the question of the desirability of a Yugoslav-Bulgarian pact of alliance. The question at issue was whether a state still under an armistice regime could be allowed to enter into a treaty with another state. Mr. Eden suggested that the Bulgarian and Yugoslav Governments should be informed that this could not be approved. Mr. Stettinius suggested that the British and American Ambassadors should discuss the matter further with Mr. Molotov in Moscow. Mr. Molotov agreed with the proposal of Mr. Stettinius.

XI. Southeastern Europe

The British delegation put in notes for the consideration of their colleagues on the following subjects:

- (a) The Control Commission in Bulgaria.
- (b) Greek claims upon Bulgaria, more particularly with reference to reparations.
- (c) Oil equipment in Rumania.

XII. Iran

Mr. Eden, Mr. Stettinius and Mr. Molotov exchanged views on the situation in Iran. It was agreed that this matter should be pursued through the diplomatic channel.

[Begin third section published Feb. 13, 1945.]

XIII. Meeting of the three foreign secretaries

The conference agreed that permanent machinery should be set up for consultation between the three Foreign Secretaries; they should meet as often as necessary, probably about every three or four months.

These meetings will be held in rotation in the three capitals, the first meeting being held in London.

[End third section published Feb. 13, 1945.]

XIV. The Montreaux Convention and the Straits

It was agreed that at the next meeting of the three Foreign Secretaries to be held in London, they should consider proposals which it was understood the Soviet Government would put forward in relation to the Montreaux Convention, and report to their Governments. The Turkish Government should be informed at the appropriate moment.

The forgoing protocol was approved and signed by the three Foreign Secretaries at the Crimean Conference Feb. 11, 1945.

E. R. Stettinius Jr.

M. Molotov

Anthony Eden

Agreement regarding Japan

The leaders of the three great powers — the Soviet Union, the United States of America and Great Britain — have agreed that in two or three months after Germany has surrendered and the war in Europe is terminated, the Soviet Union shall enter into war against Japan on the side of the Allies on condition that:

1. The status quo in Outer Mongolia (the Mongolian People's Republic) shall be preserved.
2. The former rights of Russia violated by the treacherous attack of Japan in 1904 shall be restored, viz.:
 - (a) The southern part of Sakhalin as well as the islands adjacent to it shall be returned to the Soviet Union;
 - (b) The commercial port of Dairen shall be internationalized, the pre-eminent interests of the Soviet Union in this port being safeguarded, and the lease of Port Arthur as a naval base of the U.S.S.R. restored;
 - (c) The Chinese-Eastern Railroad and the South Manchurian Railroad, which provide an outlet to Dairen, shall be jointly operated by the establishment of a joint Soviet-Chinese company, it being understood that the pre-eminent interests of the Soviet Union shall be safeguarded and that China shall retain sovereignty in Manchuria;
3. The Kurile Islands shall be handed over to the Soviet Union.

It is understood that the agreement concerning Outer Mongolia and the ports and railroads referred to above will require concurrence of Generalissimo Chiang Kai-shek. The President will take measures in order to maintain this concurrence on advice from Marshal Stalin.

The heads of the three great powers have agreed that these claims of the Soviet Union shall be unquestionably fulfilled after Japan has been defeated.

For its part, the Soviet Union expresses its readiness to conclude with the National Government of China a pact of friendship and alliance between the U.S.S.R. and China in order to render assistance to China with its armed forces for the purpose of liberating China from the Japanese yoke.

Joseph Stalin

Franklin D. Roosevelt

Winston S. Churchill

February 11, 1945

■ Editor's note =====

Below are the Chinese and Japanese translations for the term "Yalta Conference".

Chinese: <i>Yaerda huiyi</i> 雅爾達會議	Japanese: <i>Yaruta kaidan</i> ヤルタ会談
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Berlin Declaration

DECLARATION REGARDING THE DEFEAT OF GERMANY AND THE ASSUMPTION OF SUPREME AUTHORITY WITH RESPECT TO GERMANY BY THE GOVERNMENTS OF THE UNITED STATES OF AMERICA, THE UNION OF SOVIET SOCIALIST REPUBLICS, THE UNITED KINGDOM AND THE PROVISIONAL GOVERNMENT OF THE FRENCH REPUBLIC.

The German armed forces on land, at sea and in the air have been completely defeated and have surrendered unconditionally and Germany, which bears responsibility for the war, is no longer capable of resisting the will of the victorious Powers. The unconditional surrender of Germany has thereby been effected, and Germany has become subject to such requirements as may now or hereafter be imposed upon her.

There is no central Government or authority in Germany capable of accepting responsibility for the maintenance of order, the administration of the country and compliance with the requirements of the victorious Powers.

It is in these circumstances necessary, without prejudice to any subsequent decisions that may be taken respecting Germany, to make provision for the cessation of any further hostilities on the part of the German armed forces, for the maintenance of order in Germany and for the administration of the country, and to announce the immediate requirements with which Germany must comply.

The Representatives of the Supreme Commands of the United States of America, the Union of Soviet Socialist Republics, the United Kingdom and the French Republic, hereinafter called the “Allied Representatives,” acting by authority of their respective Governments and in the interests of the United Nations, accordingly make the following Declaration:

The Governments of the United States of America, the Union of Soviet Socialist Republics and the United Kingdom, and the Provisional Government of the French Republic, hereby assume supreme authority with respect to Germany, including all the powers possessed by the German Government, the High Command and any state, municipal, or local government or authority. The assumption, for the purposes stated above, of the said authority and powers does not affect the annexation of Germany.

The Governments of the United States of America, the Union of Soviet Socialist Republics and the United Kingdom, and the Provisional Government of the French Republic, will hereafter determine the boundaries of Germany or any part thereof and the status of Germany or of any area at present being part of German territory.

In virtue of the supreme authority and powers thus assumed by the four Governments, the Allied Representatives announce the following requirements arising from the complete defeat and unconditional surrender of Germany with which Germany must comply:

Article 1

Germany, and all German military, naval and air authorities and all forces under German control shall immediately cease hostilities in all theatres of war against the forces of the United Nations on land, at sea and in the air.

Article 2

- (a) All armed forces of Germany or under German control, wherever they may be situated, including land, air, anti-aircraft and naval forces, the S.S., S.A. and Gestapo, and all other forces of auxiliary organisations equipped with weapons, shall be completely disarmed, handing over their weapons and equipment to local Allied Commanders or to officers designated by the Allied Representatives.
- (b) The personnel of the formations and units of all the forces referred to in paragraph (a) above shall, at the discretion of the Commander-in-Chief of the Armed Forces of the Allied State concerned, be declared to be prisoners of war, pending further decisions, and shall be subject to such conditions and directions as may be prescribed by the respective Allied Representatives.
- (c) All forces referred to in paragraph (a) above, wherever they may be, will remain in their present positions pending instructions from the Allied Representatives.
- (d) Evacuation by the said forces of all territories outside the frontiers of Germany as they existed on the 31st December, 1937, will proceed according to instructions to be given by the Allied Representatives.
- (e) Detachments of civil police to be armed with small arms only, for the maintenance of order and for guard duties, will be designated by the Allied Representatives.

Article 3

- (a) All aircraft of any kind or nationality in Germany or German-occupied or controlled territories or waters, military, naval or civil, other than aircraft in the service of the Allies, will remain on the ground, on the water or aboard ships pending further instructions.
- (b) All German or German-controlled aircraft in or over territories or waters not occupied or controlled by Germany will proceed to Germany or to such other place or places as may be specified by the Allied Representatives.

Article 4

- (a) All German or German-controlled naval vessels, surface and submarine, auxiliary naval craft, and merchant and other shipping, wherever such vessels may be at the time of this Declaration, and all other merchant ships of whatever nationality in German ports, will remain in or proceed immediately to ports and bases as specified by the Allied Representatives. The crews of such vessels will remain on board pending further instructions.
- (b) All ships and vessels of the United Nations, whether or not title has been transferred as the result of prize court or other proceedings, which are at the disposal of Germany or under German control at the time of this Declaration, will proceed at the dates and to the ports or bases specified by the Allied Representatives.

Article 5

- (a) All or any of the following articles in the possession of the German armed forces or under German control or at German disposal will be held intact and in good condition at the disposal of the Allied Representatives, for such purposes and at such times and places as they may prescribe:
- (i) all arms, ammunition, explosives, military equipment, stores and supplies and other implements of war of all kinds and all other war materials;
 - (ii) all naval vessels of all classes, both surface and submarine, auxiliary naval craft and all merchant shipping, whether afloat, under repair or construction, built or building;
 - (iii) all aircraft of all kinds, aviation and anti-aircraft equipment and devices;
 - (iv) all transportation and communications facilities and equipment, by land, water or air;
 - (v) all military installations and establishments, including airfields, seaplane bases, ports and naval bases, storage depots, permanent and temporary land and coast fortifications, fortresses and other fortified areas, together with plans and drawings of all such fortifications, installations and establishments;
 - (vi) all factories, plants, shops, research institutions, laboratories, testing stations, technical data, patents, plans, drawings and inventions, designed or intended to produce or to facilitate the production or use of the articles, materials, and facilities referred to in sub-paragraphs (i), (ii), (iii), (iv) and (v) above or otherwise to further the conduct of war.
- (b) At the demand of the Allied Representatives the following will be furnished:
- (i) the labour, services and plant required for the maintenance or operation of any of the six categories mentioned in paragraph (a) above; and
 - (ii) any information or records that may be required by the Allied Representatives in connection with the same.
- (c) At the demand of the Allied Representatives all facilities will be provided for the movement of Allied troops and agencies, their equipment and supplies, on the railways, roads and other land communications or by sea, river or air. All means of transportation will be maintained in good order and repair, and the labour, services and plant necessary therefor will be furnished.

Article 6

- (a) The German authorities will release to the Allied Representatives, in accordance with the procedure to be laid down by them, all prisoners of war at present in their power, belonging to the forces of the United Nations, and will furnish full lists of these persons, indicating the places of their detention in Germany or territory occupied by Germany. Pending the release of such prisoners of war, the German authorities and people will protect them in their persons and property and provide them with adequate food, clothing, shelter, medical attention and money in accordance with their rank or official position.
- (b) The German authorities and people will in like manner provide for and release all other nationals of the United Nations who are confined, interned or otherwise under restraint, and all other persons who may be confined, interned or otherwise under restraint for political reasons or as a result of any Nazi action, law or regulation which discriminates on the ground of race, colour, creed or political belief.
- (c) The German authorities will, at the demand of the Allied Representatives, hand over control of places of detention to such officers as may be designated for the purpose by the Allied Representatives.

Article 7

The German authorities concerned will furnish to the Allied Representatives:

- (a) full information regarding the forces referred to in Article 2 (a), and, in particular, will furnish forthwith all information which the Allied Representatives may require concerning the numbers, locations and dispositions of such forces, whether located inside or outside Germany;
- (b) complete and detailed information concerning mines, minefields and other obstacles to movement by land, sea or air, and the safety lanes in connection therewith. All such safety lanes will be kept open and clearly marked; all mines, minefields and other dangerous obstacles will as far as possible be rendered safe, and all aids to navigation will be reinstated. Unarmed German military and civilian personnel with the necessary equipment will be made available and utilized for the above purposes and for the removal of mines, minefields and other obstacles as directed by the Allied Representatives.

Article 8

There shall be no destruction, removal, concealment, transfer or scuttling of, or damage to, any military, naval, air, shipping, port, industrial and other like property and facilities and all records and archives, wherever they may be situated, except as may be directed by the Allied Representatives.

Article 9

Pending the institution of control by the Allied Representatives over all means of communication, all radio and telecommunication installations and other forms of wire or wireless communications, whether ashore or afloat, under German control, will cease transmission except as directed by the Allied Representatives.

Article 10

The forces, ships, aircraft, military equipment, and other property in Germany or in German control or service or at German disposal, of any other country at war with any of the Allies, will be subject to the provisions of this Declaration and of any proclamations, orders, ordinances or instructions issued thereunder.

Article 11

- (a) The principal Nazi leaders as specified by the Allied Representatives, and all persons from time to time named or designated by rank, office or employment by the Allied Representatives as being suspected of having committed, ordered or abetted war crimes or analogous offences, will be apprehended and surrendered to the Allied Representatives.
- (b) The same will apply in the case of any national of any of the United Nations who is alleged to have committed an offence against his national law, and who may at any time be named or designated by rank, office or employment by the Allied Representatives.
- (c) The German authorities and people will comply with any instructions given by the Allied Representatives for the apprehension and surrender of such persons.

Article 12

The Allied Representatives will station forces and civil agencies in any or all parts of Germany as they may determine.

Article 13

- (a) In the exercise of the supreme authority with respect to Germany assumed by the Governments of the United States of America, the Union of Soviet Socialist Republics and the United Kingdom, and the Provisional Government of the French Republic, the four Allied Governments will take such steps, including the complete disarmament and demilitarization of Germany, as they deem requisite for future peace and security.
- (b) The Allied Representatives will impose on Germany additional political, administrative, economic, financial, military and other requirements arising from the complete defeat of Germany. The Allied Representatives, or persons or agencies duly designated to act on their authority, will issue proclamations, orders, ordinances and instructions for the purpose of laying down such additional requirements, and of giving effect to the other provisions of this Declaration. All German authorities and the German people shall carry out unconditionally the requirements of the Allied Representatives, and shall fully comply with all such proclamations, orders, ordinances and instructions.

Article 14

This Declaration enters into force and effect at the date and hour set forth below. In the event of failure on the part of the German authorities or people promptly and completely to fulfill their obligations hereby or hereafter imposed, the Allied Representatives will take whatever action may be deemed by them to be appropriate under the circumstances.

Article 15

This Declaration is drawn up in the English, Russian, French and German languages. The English, Russian and French are the only authentic texts.

BERLIN, GERMANY, June 5, 1945.

Signed at 1800 hours, Berlin time.

■ **Editor's note** =====

The Berlin Declaration (in Chinese: *Bolin xuanyan* 柏林宣言) was signed by the Allied commanders-in-chief:

- Georgy Zhukov for the Soviet Union
- Dwight D. Eisenhower for the United States
- Bernard Montgomery for the United Kingdom
- Jean de Lattre de Tassigny for France.

Potsdam Agreement

(A) PROTOCOL OF THE PROCEEDINGS, AUGUST 1, 1945

The Berlin Conference of the three heads of government of the USSR, USA, and UK, which took place from July 17 to August 2, 1945, came to the following conclusions:

I. Establishment of a council of foreign ministers

A. The Conference reached the following agreement for the establishment of a Council of Foreign Ministers to do the necessary preparatory work for the peace settlements:

- (1) There shall be established a Council composed of the Foreign Ministers of the United Kingdom, the Union of Soviet Socialist Republics, China, France, and the United States.
- (2) (i) The Council shall normally meet in London which shall be the permanent seat of the joint Secretariat which the Council will form. Each of the Foreign Ministers will be accompanied by a high-ranking Deputy, duly authorized to carry on the work of the Council in the absence of his Foreign Ministers, and by a small staff of technical advisers.
 - (ii) The first meeting of the Council shall be held in London not later than September 1st 1945. Meetings may be held by common agreement in other capitals as may be agreed from time to time.
- (3) (i) As its immediate important task, the Council shall be authorized to draw up, with a view to their submission to the United Nations, treaties of peace with Italy, Rumania, Bulgaria, Hungary and Finland, and to propose settlements of territorial questions outstanding on the termination of the war in Europe. The Council shall be utilized for the preparation of a peace settlement for Germany to be accepted by the Government of Germany when a government adequate for the purpose is established.
 - (ii) For the discharge of each of these tasks the Council will be composed of the Members representing those States which were signatory to the terms of surrender imposed upon the enemy State concerned. For the purposes of the peace settlement for Italy, France shall be regarded as a signatory to the terms of surrender for Italy. Other Members will be invited to participate when matters directly concerning them are under discussion.
 - (iii) Other matters may from time to time be referred to the Council by agreement between the Member Governments.
- (4) (i) Whenever the Council is considering a question of direct interest to a State not represented thereon, such State should be invited to send representatives to participate in the discussion and study of that question.
 - (ii) The Council may adapt its procedure to the particular problems under consideration. In some cases it may hold its own preliminary discussions prior to the participation of other interested States. In other cases, the Council may convoke a formal conference of the State chiefly interested in seeking a solution of the particular problem.

B. It was agreed that the three Governments should each address an identical invitation to the Governments of China and France to adopt this text and to join in establishing the Council. The text of the approved invitation was as follows:

Council of Foreign Ministers Draft for identical invitation to be sent separately by each of the Three Governments to the Governments of China and France.

The Governments of the United Kingdom, the United States and the U. S. S. R. consider it necessary to begin without delay the essential preparatory work upon the peace settlements in Europe. To this end they are agreed that there should be established a Council of the Foreign Ministers of the Five Great Powers to prepare treaties of peace with the European enemy States, for submission to the United Nations. The Council would also be empowered to propose settlements of outstanding territorial questions in Europe and to consider such other matters as member Governments might agree to refer to it.

The text adopted by the Three Governments is as follows:

(Here insert final agreed text of the Proposal)

In agreement with the Governments of the United States and U. S. S. R., His Majesty's Government in the United Kingdom and U. S. S. R., the United States Government, the United Kingdom and the Soviet Government extend a cordial invitation to the Government of China (France) to adopt the text quoted above and to join in setting up the Council. His Majesty's Government, The United States Government, The Soviet Government attach much importance to the participation of the Chinese Government (French Government) in the proposed arrangements and they hope to receive an early and favorable reply to this invitation.

C. It was understood that the establishment of the Council of Foreign Ministers for the specific purposes named in the text would be without prejudice to the agreement of the Crimea Conference that there should be periodical consultation between the Foreign Secretaries of the United States, the Union of Soviet Socialist Republics and the United Kingdom.

D. The Conference also considered the position of the European Advisory Commission in the light of the Agreement to establish the Council of Foreign Ministers. It was noted with satisfaction that the Commission had ably discharged its principal tasks by the recommendations that it had furnished for the terms of surrender for Germany, for the zones of occupation in Germany and Austria and for the inter-Allied control machinery in those countries. It was felt that further work of a detailed character for the coordination of Allied policy for the control of Germany and Austria would in future fall within the competence of the Control Council at Berlin and the Allied Commission at Vienna. Accordingly it was agreed to recommend that the European Advisory Commission be dissolved.

II. The principles to govern the treatment of Germany in the initial control period

A. POLITICAL PRINCIPLES.

1. In accordance with the Agreement on Control Machinery in Germany, supreme authority in Germany is exercised, on instructions from their respective Governments, by the Commanders-in-Chief of the armed forces of the United States of America, the United Kingdom, the Union of Soviet Socialist Republics, and the French Republic, each in his own zone of occupation, and also jointly, in matters affecting Germany as a whole, in their capacity as members of the Control Council.
2. So far as is practicable, there shall be uniformity of treatment of the German population throughout Germany.
3. The purposes of the occupation of Germany by which the Control Council shall be guided are:
 - (i) The complete disarmament and demilitarization of Germany and the elimination or control of all German industry that could be used for military production. To these ends:-
 - (a) All German land, naval and air forces, the SS., SA., SD., and Gestapo, with all their organizations, staffs and institutions, including the General Staff, the Officers' Corps, Reserve Corps, military schools, war veterans' organizations and all other military and semi-military organizations, together with all clubs and associations which serve to keep alive the military tradition in Germany, shall be completely and finally abolished in such manner as permanently to prevent the revival or reorganization of German militarism and Nazism;
 - (b) All arms, ammunition and implements of war and all specialized facilities for their production shall be held at the disposal of the Allies or destroyed. The maintenance and production of all aircraft and all arms, ammunition and implements of war shall be prevented.
 - (ii) To convince the German people that they have suffered a total military defeat and that they cannot escape responsibility for what they have brought upon themselves, since their own ruthless warfare and the fanatical Nazi resistance have destroyed German economy and made chaos and suffering inevitable.
 - (iii) To destroy the National Socialist Party and its affiliated and supervised organizations, to dissolve all Nazi institutions, to ensure that they are not revived in any form, and to prevent all Nazi and militarist activity or propaganda.

- (iv) To prepare for the eventual reconstruction of German political life on a democratic basis and for eventual peaceful cooperation in international life by Germany.
4. All Nazi laws which provided the basis of the Hitler regime or established discriminations on grounds of race, creed, or political opinion shall be abolished. No such discriminations, whether legal, administrative or otherwise, shall be tolerated.
 5. War criminals and those who have participated in planning or carrying out Nazi enterprises involving or resulting in atrocities or war crimes shall be arrested and brought to judgment. Nazi leaders, influential Nazi supporters and high officials of Nazi organizations and institutions and any other persons dangerous to the occupation or its objectives shall be arrested and interned.
 6. All members of the Nazi Party who have been more than nominal participants in its activities and all other persons hostile to Allied purposes shall be removed from public and semi-public office, and from positions of responsibility in important private undertakings. Such persons shall be replaced by persons who, by their political and moral qualities, are deemed capable of assisting in developing genuine democratic institutions in Germany.
 7. German education shall be so controlled as completely to eliminate Nazi and militarist doctrines and to make possible the successful development of democratic ideas.
 8. The judicial system will be reorganized in accordance with the principles of democracy, of justice under law, and of equal rights for all citizens without distinction of race, nationality or religion.
 9. The administration in Germany should be directed towards the decentralization of the political structure and the development of local responsibility. To this end:-
 - (i) local self-government shall be restored throughout Germany on democratic principles and in particular through elective councils as rapidly as is consistent with military security and the purposes of military occupation;
 - (ii) all democratic political parties with rights of assembly and of public discussion shall be allowed and encouraged throughout Germany;
 - (iii) representative and elective principles shall be introduced into regional, provincial and state (Land) administration as rapidly as may be justified by the successful application of these principles in local self-government;
 - (iv) for the time being, no central German Government shall be established. Notwithstanding this, however, certain essential central German administrative departments, headed by State Secretaries, shall be established, particularly in the fields of finance, transport, communications, foreign trade and industry. Such departments will act under the direction of the Control Council.
 10. Subject to the necessity for maintaining military security, freedom of speech, press and religion shall be permitted, and religious institutions shall be respected. Subject likewise to the maintenance of military security, the formation of free trade unions shall be permitted.

B. ECONOMIC PRINCIPLES.

11. In order to eliminate Germany's war potential, the production of arms, ammunition and implements of war as well as all types of aircraft and sea-going ships shall be prohibited and prevented. Production of metals, chemicals, machinery and other items that are directly necessary to a war economy shall be rigidly controlled and restricted to Germany's approved post-war peacetime needs to meet the objectives stated in Paragraph 15. Productive capacity not needed for permitted production shall be removed in accordance with the reparations plan recommended by the Allied Commission on Reparations and approved by the Governments concerned or if not removed shall be destroyed.
12. At the earliest practicable date, the German economy shall be decentralized for the purpose of eliminating the present excessive concentration of economic power as exemplified in particular by cartels, syndicates, trusts and other monopolistic arrangements.
13. In organizing the German Economy, primary emphasis shall be given to the development of agriculture and peaceful domestic industries.
14. During the period of occupation Germany shall be treated as a single economic unit. To this end common policies shall be established in regard to:
 - (a) mining and industrial production and its allocation;
 - (b) agriculture, forestry and fishing;
 - (c) wages, prices and rationing;

- (d) import and export programs for Germany as a whole;
- (e) currency and banking, central taxation and customs;
- (f) reparation and removal of industrial war potential;
- (g) transportation and communications.

In applying these policies account shall be taken, where appropriate, of varying local conditions.

15. Allied controls shall be imposed upon the German economy but only to the extent necessary:
 - (a) to carry out programs of industrial disarmament, demilitarization, of reparations, and of approved exports and imports.
 - (b) to assure the production and maintenance of goods and services required to meet the needs of the occupying forces and displaced persons in Germany and essential to maintain in Germany average living standards not exceeding the average of the standards of living of European countries. (European countries means all European countries excluding the United Kingdom and the U. S. S. R.).
 - (c) to ensure in the manner determined by the Control Council the equitable distribution of essential commodities between the several zones so as to produce a balanced economy throughout Germany and reduce the need for imports.
 - (d) to control German industry and all economic and financial international transactions including exports and imports, with the aim of preventing Germany from developing a war potential and of achieving the other objectives named herein.
 - (e) to control all German public or private scientific bodies research and experimental institutions, laboratories, et cetera connected with economic activities.
16. In the imposition and maintenance of economic controls established by the Control Council, German administrative machinery shall be created and the German authorities shall be required to the fullest extent practicable to proclaim and assume administration of such controls. Thus it should be brought home to the German people that the responsibility for the administration of such controls and any break-down in these controls will rest with themselves. Any German controls which may run counter to the objectives of occupation will be prohibited.
17. Measures shall be promptly taken:
 - (a) to effect essential repair of transport;
 - (b) to enlarge coal production;
 - (c) to maximize agricultural output; and
 - (d) to erect emergency repair of housing and essential utilities.
18. Appropriate steps shall be taken by the Control Council to exercise control and the power of disposition over German-owned external assets not already under the control of United Nations which have taken part in the war against Germany.
19. Payment of Reparations should leave enough resources to enable the German people to subsist without external assistance. In working out the economic balance of Germany the necessary means must be provided to pay for imports approved by the Control Council in Germany. The proceeds of exports from current production and stocks shall be available in the first place for payment for such imports.

The above clause will not apply to the equipment and products referred to in paragraphs 4 (a) and 4 (b) of the Reparations Agreement.

III. Reparations from Germany

1. Reparation claims of the U. S. S. R. shall be met by removals from the zone of Germany occupied by the U. S. S. R., and from appropriate German external assets.
2. The U. S. S. R. undertakes to settle the reparation claims of Poland from its own share of reparations.
3. The reparation claims of the United States, the United Kingdom and other countries entitled to reparations shall be met from the Western Zones and from appropriate German external assets.
4. In addition to the reparations to be taken by the U. S. S. R. from its own zone of occupation, the U. S. S. R. shall receive additionally from the Western Zones:
 - (a) 15 per cent of such usable and complete industrial capital equipment, in the first place from the metallurgical, chemical and machine manufacturing industries as is unnecessary for the German peace economy and should be removed from the Western Zones of Germany, in exchange for an equivalent

value of food, coal, potash, zinc, timber, clay products, petroleum products, and such other commodities as may be agreed upon.

- (b) 10 per cent of such industrial capital equipment as is unnecessary for the German peace economy and should be removed from the Western Zones, to be transferred to the Soviet Government on reparations account without payment or exchange of any kind in return.

Removals of equipment as provided in (a) and (b) above shall be made simultaneously.

5. The amount of equipment to be removed from the Western Zones on account of reparations must be determined within six months from now at the latest.
6. Removals of industrial capital equipment shall begin as soon as possible and shall be completed within two years from the determination specified in paragraph 5. The delivery of products covered by 4 (a) above shall begin as soon as possible and shall be made by the U. S. S. R. in agreed installments within five years of the date hereof. The determination of the amount and character of the industrial capital equipment unnecessary for the German peace economy and therefore available for reparation shall be made by the Control Council under policies fixed by the Allied Commission on Reparations, with the participation of France, subject to the final approval of the Zone Commander in the Zone from which the equipment is to be removed.
7. Prior to the fixing of the total amount of equipment subject to removal, advance deliveries shall be made in respect to such equipment as will be determined to be eligible for delivery in accordance with the procedure set forth in the last sentence of paragraph 6.
8. The Soviet Government renounces all claims in respect of reparations to shares of German enterprises which are located in the Western Zones of Germany as well as to German foreign assets in all countries except those specified in paragraph 9 below.
9. The Governments of the U. K. and U. S. A. renounce all claims in respect of reparations to shares of German enterprises which are located in the Eastern Zone of occupation in Germany, as well as to German foreign assets in Bulgaria, Finland, Hungary, Rumania and Eastern Austria.
10. The Soviet Government makes no claims to gold captured by the Allied troops in Germany.

IV. Disposal of the German navy and merchant marine

A. The following principles for the distribution of the German Navy were agreed:

- (1) The total strength of the German surface navy, excluding ships sunk and those taken over from Allied Nations, but including ships under construction or repair, shall be divided equally among the U. S. S. R., U. K., and U. S. A.
- (2) Ships under construction or repair mean those ships whose construction or repair may be completed within three to six months, according to the type of ship. Whether such ships under construction or repair shall be completed or repaired shall be determined by the technical commission appointed by the Three Powers and referred to below, subject to the principle that their completion or repair must be achieved within the time limits above provided, without any increase of skilled employment in the German shipyards and without permitting the reopening of any German ship building or connected industries. Completion date means the date when a ship is able to go out on its first trip, or, under peacetime standards, would refer to the customary date of delivery by shipyard to the Government.
- (3) The larger part of the German submarine fleet shall be sunk. Not more than thirty submarines shall be preserved and divided equally between the U. S. S. R., U. K., and U. S. A. for experimental and technical purposes.
- (4) All stocks of armament, ammunition and supplies of the German Navy appertaining to the vessels transferred pursuant to paragraphs (1) and (3) hereof shall be handed over to the respective powers receiving such ships.
- (5) The Three Governments agree to constitute a tripartite naval commission comprising two representatives for each government, accompanied by the requisite staff, to submit agreed recommendations to the Three Governments for the allocation of specific German warships and to handle other detailed matters arising out of the agreement between the Three Governments regarding the German fleet. The Commission will hold its first meeting not later than 15th August, 1945, in Berlin, which shall be its headquarters. Each Delegation on the Commission will have the right on the basis of reciprocity to inspect German warships wherever they may be located.

(6) The Three Governments agreed that transfers, including those of ships under construction and repair, shall be completed as soon as possible, but not later than 15th February, 1946. The Commission will submit fortnightly reports, including proposals for the progressive allocation of the vessels when agreed by the Commission.

B. The following principles for the distribution of the German Merchant Marine were agreed:-

- (1) The German Merchant Marine, surrendered to the Three Powers and wherever located, shall be divided equally among the U. S. S. R., the U. K., and the U. S. A. The actual transfers of the ships to the respective countries shall take place as soon as practicable after the end of the war against Japan. The United Kingdom and the United States will provide out of their shares of the surrendered German merchant ships appropriate amounts for other Allied States whose merchant marines have suffered heavy losses in the common cause against Germany, except that the Soviet Union shall provide out of its share for Poland.
- (2) The allocation, manning, and operation of these ships during the Japanese War period shall fall under the cognizance and authority of the Combined Shipping Adjustment Board and the United Maritime Authority.
- (3) While actual transfer of the ships shall be delayed until after the end of the war with Japan, a Tripartite Shipping Commission shall inventory and value all available ships and recommend a specific distribution in accordance with paragraph (1).
- (4) German inland and coastal ships determined to be necessary to the maintenance of the basic German peace economy by the Allied Control Council of Germany shall not be included in the shipping pool thus divided among the Three Powers.
- (5) The Three Governments agree to constitute a tripartite merchant marine commission comprising two representatives for each Government, accompanied by the requisite staff, to submit agreed recommendations to the Three Governments for the allocation of specific German merchant ships and to handle other detailed matters arising out of the agreement between the Three Governments regarding the German merchant ships. The Commission will hold its first meeting not later than September 1st, 1945, in Berlin, which shall be its headquarters. Each delegation on the Commission will have the right on the basis of reciprocity to inspect the German merchant ships wherever they may be located.

V. City of Koenigsberg and the adjacent area

The Conference examined a proposal by the Soviet Government to the effect that pending the final determination of territorial questions at the peace settlement, the section of the western frontier of the Union of Soviet Socialist Republics which is adjacent to the Baltic Sea should pass from a point on the eastern shore of the Bay of Danzig to the east, north of Braunsberg-Goldap, to the meeting point of the frontiers of Lithuania, the Polish Republic and East Prussia.

The Conference has agreed in principle to the proposal of the Soviet Government concerning the ultimate transfer to the Soviet Union of the City of Koenigsberg and the area adjacent to it as described above subject to expert examination of the actual frontier.

The President of the United States and the British Prime Minister have declared that they will support the proposal of the Conference at the forthcoming peace settlement.

VI. War criminals

The Three Governments have taken note of the discussions which have been proceeding in recent weeks in London between British, United States, Soviet and French representatives with a view to reaching agreement on the methods of trial of those major war criminals whose crimes under the Moscow Declaration of October, 1943 have no particular geographical localization. The Three Governments reaffirm their intention to bring these criminals to swift and sure justice. They hope that the negotiations in London will result in speedy agreement being reached for this purpose, and they regard it as a matter of great importance that the trial of these major criminals should begin at the earliest possible date. The first list of defendants will be published before 1st September.

VII. Austria

The Conference examined a proposal by the Soviet Government on the extension of the authority of the Austrian Provisional Government to all of Austria.

The three governments agreed that they were prepared to examine this question after the entry of the British and American forces into the city of Vienna.

It was agreed that reparations should not be exacted from Austria.

VIII. Poland

A. DECLARATION.

We have taken note with pleasure of the agreement reached among representative Poles from Poland and abroad which has made possible the formation, in accordance with the decisions reached at the Crimea Conference, of a Polish Provisional Government of National Unity recognized by the Three Powers. The establishment by the British and United States Governments of diplomatic relations with the Polish Provisional Government of National Unity has resulted in the withdrawal of their recognition from the former Polish Government in London, which no longer exists.

The British and United States Governments have taken measures to protect the interest of the Polish Provisional Government of National Unity as the recognized government of the Polish State in the property belonging to the Polish State located in their territories and under their control, whatever the form of this property may be. They have further taken measures to prevent alienation to third parties of such property. All proper facilities will be given to the Polish Provisional Government of National Unity for the exercise of the ordinary legal remedies for the recovery of any property belonging to the Polish State which may have been wrongfully alienated.

The Three Powers are anxious to assist the Polish Provisional Government of National Unity in facilitating the return to Poland as soon as practicable of all Poles abroad who wish to go, including members of the Polish Armed Forces and the Merchant Marine. They expect that those Poles who return home shall be accorded personal and property rights on the same basis as all Polish citizens

The Three Powers note that the Polish Provisional Government of National Unity, in accordance with the decisions of the Crimea Conference, has agreed to the holding of free and unfettered elections as soon as possible on the basis of universal suffrage and secret ballot in which all democratic and anti-Nazi parties shall have the right to take part and to put forward candidates, and that representatives of the Allied press shall enjoy full freedom to report to the world upon developments in Poland before and during the elections.

B. WESTERN FRONTIER OF POLAND.

In conformity with the agreement on Poland reached at the Crimea Conference the three Heads of Government have sought the opinion of the Polish Provisional Government of National Unity in regard to the accession of territory in the north 'end west which Poland should receive. The President of the National Council of Poland and members of the Polish Provisional Government of National Unity have been received at the Conference and have fully presented their views. The three Heads of Government reaffirm their opinion that the final delimitation of the western frontier of Poland should await the peace settlement.

The three Heads of Government agree that, pending the final determination of Poland's western frontier, the former German territories east of a line running from the Baltic Sea immediately west of Swinamunde, and thence along the Oder River to the confluence of the western Neisse River and along the Western Neisse to the Czechoslovak frontier, including that portion of East Prussia not placed under the administration of the Union of Soviet Socialist Republics in accordance with the understanding reached at this conference and including the area of the former free city of Danzig, shall be under the administration of the Polish State and for such purposes should not be considered as part of the Soviet zone of occupation in Germany.

IX. Conclusion on peace treaties and admission to the United Nations Organization

The three Governments consider it desirable that the present anomalous position of Italy, Bulgaria, Finland, Hungary and Rumania should be terminated by the conclusion of Peace Treaties. They trust that the other interested Allied Governments will share these views.

For their part the three Governments have included the preparation of a Peace Treaty for Italy as the first among the immediate important tasks to be undertaken by the new Council of Foreign Ministers. Italy was the first of the Axis Powers to break with Germany, to whose defeat she has made a material contribution, and has now joined with the Allies in the struggle against Japan. Italy has freed herself from the Fascist regime and is making good progress towards reestablishment of a democratic government and institutions. The conclusion of such a Peace Treaty with a recognized and democratic Italian Government will make it possible for the three Governments to fulfill their desire to support an application from Italy for membership of the United Nations.

The three Governments have also charged the Council of Foreign Ministers with the task of preparing Peace Treaties for Bulgaria, Finland, Hungary and Rumania. The conclusion of Peace Treaties with recognized democratic governments in these States will also enable the three Governments to support applications from them for membership of the United Nations. The three Governments agree to examine each separately in the near future in

the light of the conditions then prevailing, the establishment of diplomatic relations with Finland, Rumania, Bulgaria, and Hungary to the extent possible prior to the conclusion of peace treaties with those countries.

The three Governments have no doubt that in view of the changed conditions resulting from the termination of the war in Europe, representatives of the Allied press will enjoy full freedom to report to the world upon developments in Rumania, Bulgaria, Hungary and Finland.

As regards the admission of other States into the United Nations Organization, Article 4 of the Charter of the United Nations declares that:

1. Membership in the United Nations is open to all other peace-loving States who accept the obligations contained in the present Charter and, in the judgment of the organization, are able and willing to carry out these obligations;
2. The admission of any such State to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.

The three Governments, so far as they are concerned, will support applications for membership from those States which have remained neutral during the war and which fulfill the qualifications set out above.

The three Governments feel bound however to make it clear that they for their part would not favour any application for membership put forward by the present Spanish Government, which, having been founded with the support of the Axis Powers, does not, in view of its origins, its nature, its record and its close association with the aggressor States, possess the qualifications necessary to justify such membership.

X. Territorial trusteeship

The Conference examined a proposal by the Soviet Government on the question of trusteeship territories as defined in the decision of the Crimea Conference and in the Charter of the United Nations Organization.

After an exchange of views on this question it was decided that the disposition of any former Italian colonial territories was one to be decided in connection with the preparation of a peace treaty for Italy and that the question of Italian colonial territory would be considered by the September Council of Ministers of Foreign Affairs.

XI. Revised allied control commission procedure in Rumania, Bulgaria, and Hungary

The three Governments took note that the Soviet Representatives on the Allied Control Commissions in Rumania, Bulgaria, and Hungary, have communicated to their United Kingdom and United States colleagues proposals for improving the work of the Control Commissions, now that hostilities in Europe have ceased.

The three Governments agreed that the revision of the procedures of the Allied Control Commissions in these countries would now be undertaken, taking into account the interests and responsibilities of the three Governments which together presented the terms of armistice to the respective countries, and accepting as a basis, in respect of all three countries, the Soviet Government's proposals for Hungary as annexed hereto. (Annex I)

XII. Orderly transfer of German populations

The Three Governments, having considered the question in all its aspects, recognize that the transfer to Germany of German populations, or elements thereof, remaining in Poland, Czechoslovakia and Hungary, will have to be undertaken. They agree that any transfers that take place should be effected in an orderly and humane manner.

Since the influx of a large number of Germans into Germany would increase the burden already resting on the occupying authorities, they consider that the Control Council in Germany should in the first instance examine the problem, with special regard to the question of the equitable distribution of these Germans among the several zones of occupation. They are accordingly instructing their respective representatives on the Control Council to report to their Governments as soon as possible the extent to which such persons have already entered Germany from Poland, Czechoslovakia and Hungary, to submit an estimate of the time and rate at which further transfers could be carried out having regard to the present situation in Germany.

The Czechoslovak Government, the Polish Provisional Government and the Control Council in Hungary are at the same time being informed of the above and are being requested meanwhile to suspend further expulsions pending an examination by the Governments concerned of the report from their representatives on the Control Council.

XIII. Oil equipment in Rumania

The Conference agreed to set up two bilateral commissions of experts, one to be composed of United Kingdom and Soviet Members and one to be composed of United States and Soviet Members, to investigate the facts and examine the documents, as a basis for the settlement of questions arising from the removal of oil equipment in Rumania. It was further agreed that these experts shall begin their work within ten days, on the spot.

XIV. Iran

It was agreed that Allied troops should be withdrawn immediately from Tehran, and that further stages of the withdrawal of troops from Iran should be considered at the meeting of the Council of Foreign Ministers to be held in London in September, 1945.

XV. The international zone of Tangier

A proposal by the Soviet Government was examined and the following decisions were reached:

Having examined the question of the Zone of Tangier, the three Governments have agreed that this Zone, which includes the City of Tangier and the area adjacent to it, in view of its special strategic importance, shall remain international.

The question of Tangier will be discussed in the near future at a meeting in Paris of representatives of the Governments of the Union of Soviet Socialist Republics, the United States of America, the United Kingdom and France.

XVI. The Black Sea Straits

The Three Governments recognized that the Convention concluded at Montreux should be revised as failing to meet present-day conditions.

It was agreed that as the next step the matter should be the subject of direct conversations between each of the three Governments and the Turkish Government.

XVII. International inland waterways

The Conference considered a proposal of the U. S. Delegation on this subject and agreed to refer it for consideration to the forthcoming meeting of the Council of Foreign Ministers in London.

XVIII. European inland transport conference

The British and U. S. Delegations to the Conference informed the Soviet Delegation of the desire of the British and U. S. Governments to reconvene the European Inland Transport Conference and stated that they would welcome assurance that the Soviet Government would participate in the work of the reconvened conference. The Soviet Government agreed that it would participate in this conference.

XIX. Directives to military commanders on allied control council for Germany

The Three Governments agreed that each would send a directive to its representative on the Control Council for Germany informing him of all decisions of the Conference affecting matters within the scope of his duties.

XX. Use of allied property for satellite reparations or war trophies

The proposal (Annex II) presented by the United States Delegation was accepted in principle by the Conference, but the drafting of an agreement on the matter was left to be worked out through diplomatic channels.

XXI. Military talks

During the Conference there were meetings between the Chiefs of Staff of the Three Governments on military matters of common interest.

Annex I

TEXT OF A LETTER TRANSMITTED ON JULY 12 TO THE REPRESENTATIVES OF THE U. S. AND U. K. GOVERNMENTS ON THE ALLIED CONTROL COMMISSION IN HUNGARY

In view of the changed situation in connection with the termination of the war against Germany, the Soviet Government finds it necessary to establish the following order of work for the Allied Control Commission in Hungary.

1. During the period up to the conclusion of peace with Hungary the President (or Vice-President) of the ACC will regularly call conferences with the British and American representatives for the purpose of discussing the most important questions relating to the work of the ACC. The conferences will be called once in 10 days, or more frequently in case of need.

Directives of the ACC on questions of principle will be issued to the Hungarian authorities by the President of the Allied Control Commission after agreement on these directives with the English and American representatives.

2. The British and American representatives in the ACC will take part in general conferences of heads of divisions and delegates of the ACC, convoked by the President of the ACC, which meetings will be regular in nature. The British and American representatives will also participate personally or through their representatives in appropriate instances in mixed commissions created by the President of the ACC for questions connected with the execution by the ACC of its functions
3. Free movement by the American and British representatives in the country will be permitted provided that the ACC is previously informed of the time and route of the journeys.
4. All questions connected with permission for the entrance and exit of members of the staff of the British and American representatives in Hungary will be decided on the spot by the President of the ACC within a time limit of not more than one week.
5. The bringing in and sending out by plane of mail, cargoes and diplomatic couriers will be carried out by the British and American representatives on the ACC under arrangements and within time limits established by the ACC, or in special cases by previous coordination with the President of the ACC.

I consider it necessary to add to the above that in all other points the existing Statutes regarding the ACC in Hungary, which was confirmed on January 20, 1945, shall remain in force in the future.

Annex II

USE OF ALLIED PROPERTY FOR SATELITE REPARATIONS OR WAR TROPHIES

1. The burden of reparation and "war trophies" should not fall on Allied nationals.
2. Capital Equipment—We object to the removal of such Allied property as reparations, "war trophies", or under any other guise. Loss would accrue to Allied nationals as a result of destruction of plants and the consequent loss of markets and trading connections. Seizure of Allied property makes impossible the fulfillment by the satellite of its obligation under the armistice to restore intact the rights and interests of the Allied Nations and their nationals.

The United States looks to the other occupying powers for the return of any equipment already removed and the cessation of removals. Where such equipment will not or cannot be returned, the U. S. will demand of the satellite adequate, effective and prompt compensation to American nationals, and that such compensation have priority equal to that of the reparations payment.

These principles apply to all property wholly or substantially owned by Allied nationals. In the event of removals of property in which the American as well as the entire Allied interest is less than substantial, the U. S. expects adequate, effective, and prompt compensation.

3. Current Production—While the U. S. does not oppose reparation out of current production of Allied investments, the satellite must provide immediate and adequate compensation to the Allied nationals including sufficient foreign exchange or products so that they can recover reasonable foreign currency expenditures and transfer a reasonable return on their investment. Such compensation must also have equal priority with reparations.

We deem it essential that the satellites not conclude treaties, agreements or arrangements which deny to Allied nationals access, on equal terms, to their trade, raw materials and industry; and appropriately modify any existing arrangements which may have that effect.

(B) PROCLAMATION DEFINING TERMS FOR JAPANESE SURRENDER, JULY 26, 1945

- (1) We—The President of the United States, the President of the National Government of the Republic of China, and the Prime Minister of Great Britain, representing the hundreds of millions of our countrymen, have conferred and agree that Japan shall be given an opportunity to end this war.
- (2) The prodigious land, sea and air forces of the United States, the British Empire and of China, many times reinforced by their armies and air fleets from the west, are poised to strike the final blows upon Japan. This military power is sustained and inspired by the determination of all the Allied Nations to prosecute the war against Japan until she ceases to resist.
- (3) The result of the futile and senseless German resistance to the might of the aroused free peoples of the world stands forth in awful clarity as an example to the people of Japan. The might that now converges on Japan is immeasurably greater than that which, when applied to the resisting Nazis, necessarily laid waste to the lands, the industry and the method of life of the whole German people. The full application of our military power,

backed by our resolve, All mean the inevitable and complete destruction of the Japanese armed forces and just as inevitably the utter devastation of the Japanese homeland.

- (4) The time has come for Japan to decide whether she will continue to be controlled by those self-willed militaristic advisers whose unintelligent calculations have brought the Empire of Japan to the threshold of annihilation, or whether she will follow the path of reason.
- (5) Following are our terms. We will not deviate from them. There are no alternatives. We shall brook no delay.
- (6) There must be eliminated for all time the authority and influence of those who have deceived and misled the people of Japan into embarking on world conquest, for we insist that a new order of peace security and justice will be impossible until irresponsible militarism is driven from the world.
- (7) Until such a new order is established and until there is convincing proof that Japan's war-making power is destroyed, points in Japanese territory to be designated by the Allies shall be occupied to secure the achievement of the basic objectives we are here setting forth.
- (8) The terms of the Cairo Declaration shall be carried out and Japanese sovereignty shall be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as we determine.
- (9) The Japanese military forces, after being completely disarmed, shall be permitted to return to their homes with the opportunity to lead peaceful and productive lives.
- (10) We do not intend that the Japanese shall be enslaved as a race or destroyed as a nation, but stern justice shall be meted out to all war criminals, including those who have visited cruelties upon our prisoners. The Japanese Government shall remove all obstacles to the revival and strengthening of democratic tendencies among the Japanese people. Freedom of speech, of religion, and of thought, as well as respect for the fundamental human rights shall be established.
- (11) Japan shall be permitted to maintain such industries as will sustain her economy and permit the exaction of just reparations in kind, but not those [industries] which would enable her to re-arm for war. To this end, access to, as distinguished from control of, raw materials shall be permitted. Eventual Japanese participation in world trade relations shall be permitted.
- (12) The occupying forces of the Allies shall be withdrawn from Japan as soon as these objectives have been accomplished and there has been established in accordance with the freely expressed will of the Japanese people a peacefully inclined and responsible government.
- (13) We call upon the government of Japan to proclaim now the unconditional surrender of all Japanese armed forces, and to provide proper and adequate assurances of their good faith in such action. The alternative for Japan is prompt and utter destruction.

■ Editor's note =====

The “Potsdam Agreement” was the result of the Potsdam Conference which took place from July 17 to Aug. 2, 1945 in Germany's Potsdam. The delegations of the three participating powers were represented by US President Harry S. Truman, the British Prime Minister—before July 26 Winston S. Churchill, after that Clement Attlee—and the Premier of the USSR Joseph V. Stalin. What is shown above as “b) Proclamation Defining Terms for Japanese Surrender” also became known as “Potsdam Declaration” issued by US President Truman, UK Prime Minister Churchill and ROC Chairman of the Nationalist Government Chiang Kai-shek 蔣介石.

Below are the Chinese and Japanese translations for both terms “Potsdam Agreement” and “Potsdam Declaration”.

Potsdam Agreement	Chinese: <i>Pocitan xieding</i> 波茨坦協定	Japanese: <i>Potsudamu kyōtei</i> ポツダム協定
Potsdam Declaration	Chinese: <i>Pocitan gonggao</i> 波茨坦公告	Japanese: <i>Potsudamu sengen</i> ポツダム宣言

The Chinese translation of the Potsdam Declaration's full text is shown below.

《波茨坦公告》（1945年7月26日）

美、英、中三國政府領袖公告：

- (一) 余等：美國總統、中國國民政府主席及英國首相代表余等億萬國民，業經會商，並同意對日本應予以一機會，以結束此次戰事。
- (二) 美國、英帝國及中國之龐大陸、海、空部隊，業已增強多倍，其由西方調來之軍隊及空軍，即將予日本以最後之打擊，彼等之武力受所有同盟國之決心之支持及鼓勵，對日作戰，不至其停

- 止抵抗不止。
- (三) 德國無效果及無意抵抗全世界激起之自由人之力量，所得之結果，彰彰在前，可為日本人民之殷鑒。此種力量當其對付抵抗之納粹時，不得不將德國人民全體之土地、工業及其生活方式摧殘殆盡。但現在集中對待日本之力量則較之更為龐大，不可衡量。吾等之軍力，加以吾人之堅決意志為後盾，若予以全部實施，必將使日本軍隊完全毀滅，無可逃遁，而日本之本土亦必終歸全部殘毀。
 - (四) 現時業已到來，日本必須決定一途，其將繼續受其一意孤行計算錯誤，使日本帝國已陷于完全毀滅之境之軍人之統制，即或走向理智之路。
 - (五) 以下為吾人之條件，吾人決不更改，亦無其他另一方式。猶豫遷延，更為吾人所不容許。
 - (六) 欺騙及錯誤領導日本人民使其妄欲征服世界者之威權及勢力，必須永久剔除。蓋吾人堅持非將負責之窮兵黷武主義驅出世界，則和平安全及正義之新秩序勢不可能。
 - (七) 直至如此之新秩序成立時，及直至日本製造戰爭之力量業已毀滅，有確定可信之証據時，日本領土經盟國之指定，必須佔領，俾吾人在此陳述之基本目的得以完成。
 - (八) 《開羅宣言》之條件必將實施，而日本之主權必將限於本州、北海道、九州、四國及吾人所決定之其他小島之內。
 - (九) 日本軍隊在完全解除武裝以後，將被允許返其家鄉，得有和平及生產生活之機會。
 - (十) 吾人無意奴役日本民族或消滅其國家，但對於戰罪人犯，包括虐待吾人俘虜在內，將處以法律之裁判，日本政府必須將阻止日本人民民主趨勢在內之復興及增強之所有障礙予以消除，言論、宗教及思想自由以及對於基本人權之重視必須成立。
 - (十一) 日本將被允許維持其經濟所必需及可以償付貨物賠款之工業，但可以使其重新武裝作戰之工業不在其內。為此目的，可准其獲得原料，以別於統制原料，日本最後參加國際貿易關係當可准許。
 - (十二) 上述目的達到及依據日本人民自由之意志成立一傾向和平及負責之政府后，同盟國佔領軍隊當即撤退。
 - (十三) 吾人通告日本政府立即宣布所有日本武裝部隊無條件投降，並對此種行動誠意實行予以適當之各項保證，除此一途，日本即將迅速完全毀滅。

Imperial Rescript on the Termination of the War (Jewel Voice Broadcast)

TO OUR GOOD AND LOYAL SUBJECTS:

After pondering deeply the general trends of the world and the actual conditions obtaining in Our Empire today, We have decided to effect a settlement of the present situation by resorting to an extraordinary measure.

We have ordered Our Government to communicate to the Governments of the United States, Great Britain, China and the Soviet Union that Our Empire accepts the provisions of their Joint Declaration.

To strive for the common prosperity and happiness of all nations as well as the security and well-being of Our subjects is the solemn obligation which has been handed down by Our Imperial Ancestors and which lies close to Our heart.

Indeed, We declared war on America and Britain out of Our sincere desire to ensure Japan's self-preservation and the stabilization of East Asia, it being far from Our thought either to infringe upon the sovereignty of other nations or to embark upon territorial aggrandizement.

But now the war has lasted for nearly four years. Despite the best that has been done by everyone — the gallant fighting of the military and naval forces, the diligence and assiduity of Our servants of the State, and the devoted service of Our one hundred million people — the war situation has developed not necessarily to Japan's advantage, while the general trends of the world have all turned against her interest.

Moreover, the enemy has begun to employ a new and most cruel bomb, the power of which to do damage is, indeed, incalculable, taking the toll of many innocent lives. Should We continue to fight, not only would it result in an ultimate collapse and obliteration of the Japanese nation, but also it would lead to the total extinction of human civilization.

Such being the case, how are We to save the millions of Our subjects, or to atone Ourselves before the hallowed spirits of Our Imperial Ancestors? This is the reason why We have ordered the acceptance of the provisions of the Joint Declaration of the Powers.

We cannot but express the deepest sense of regret to Our Allied nations of East Asia, who have consistently cooperated with the Empire towards the emancipation of East Asia.

The thought of those officers and men as well as others who have fallen in the fields of battle, those who died at their posts of duty, or those who met with untimely death and all their bereaved families, pains Our heart night and day.

The welfare of the wounded and the war-sufferers, and of those who have lost their homes and livelihood, are the objects of Our profound solicitude.

The hardships and sufferings to which Our nation is to be subjected hereafter will be certainly great. We are keenly aware of the inmost feelings of all of you, Our subjects. However, it is according to the dictates of time and fate that We have resolved to pave the way for a grand peace for all the generations to come by enduring the unendurable and suffering what is unsufferable.

Having been able to safeguard and maintain the structure of the Imperial State, We are always with you, Our good and loyal subjects, relying upon your sincerity and integrity.

Beware most strictly of any outbursts of emotion which may engender needless complications, or any fraternal contention and strike which may create confusion, lead you astray and cause you to lose the confidence of the world.

Let the entire nation continue as one family from generation to generation, ever firm in its faith in the imperishability of its sacred land, and mindful of its heavy burden of responsibility, and of the long road before it.

Unite your total strength, to be devoted to construction for the future. Cultivate the ways of rectitude, foster nobility of spirit, and work with resolution — so that you may enhance the innate glory of the Imperial State and keep pace with the progress of the world.

Hirohito [signature and official seal]

August 14, 1945

Prime Minister

Navy Minister

Minister of Justice

Army Minister

Minister of Munitions

Minister of Health

Minister of State

Minister of State

Minister of State

Finance Minister

Minister of Education

Minister of Agriculture and Forestry

Interior Minister

Minister of Foreign Affairs and Minister for Greater East Asia

Minister of State

Minister of Transport

Baron Kantarō Suzuki (signature)

Yonai Mitsumasa (signature)

Matsuzaka Hiromasa (signature)

Korechika Anami (signature)

Toyoda Teijirō (signature)

Okada Tadahiko (signature)

Sakurai Hyōgorō (signature)

Sakonji Seizō (signature)

Simomura Hiroshi (signature)

Hirose Toyosaku (signature)

Ōta Kōzō (signature)

Ishiguro Tadaatsu (signature)

Abe Genki (signature)

Tōgō Shigenori (signature)

Yasui Tōji (signature)

Kobiyama Naoto (signature)

終戰詔書

惟天下之大勢，睹本朝之現狀，欲取非常之措施，收拾時局。茲佈告天下：朕已諭令廷臣通告美、英、支、蘇四國，願受諾其共同宣言。

朕繼承洪緒，錫福生民。曩者，本朝傳檄四方，戰與英美，本求社稷於億萬斯年之舉，兼定東亞安寧平和之意。至如毀別國之宗社、奪領邦之故土，悉非朕意。今征伐已曆四載，雖我將兵驍勇善戰，百官有司勵精圖治，一億眾庶奉公體國，然時局每況愈下，失勢之徵已現。及今，夷軍彈石之殘虐，頻殺無辜，慘害生靈，實難逆料。如若征伐相續，則我生民不存於世，被髮左衽之期重現；如此，則朕何以保全億兆赤子、何面目復見列祖列宗乎？此朕所以敕令廷臣接受聯軍之誥者也。

至若同事業之盟邦，朕遺餘恨也。然念及臣工黔首曝屍於沙場，忠志之士殉國於內外，遺屬之狀慟天，朕五臟為之俱裂。而殘喘之生民，或負戰傷、禍難，或失家業、生計，朕所視之，深為軫念。故日後國朝所受之苦非常，臣民表情之表勝往；雖時運之所趨，然朕欲忍所難忍、耐所難耐，以開太平于萬世。

朕於茲得護國體，賴爾等忠良之精誠，並與臣民之同在。若夫為情所激、妄滋事端，或同胞相煎、擾亂時局，何至迷途于大道、失信於天下哉？斯之謬誤，朕當深鑒。今誠宜舉國一家，子孫相傳，信神州之不沉，保家國於不滅，念任重而道遠，傾全力於建設，篤守道義，鞏固志操，誓必揚國體之精華，期同步天下之進化。於職，咨爾多方，宜悉朕意。

裕仁（簽字蓋章）

昭和二十年八月十四日

內閣總理大臣男爵	鈴木貫太郎（簽字）
海軍大臣	米內光政（簽字）
司法大臣	松阪廣政（簽字）
陸軍大臣	阿南惟幾（簽字）
軍需大臣	豐田貞次郎（簽字）
厚生大臣	岡田忠彥（簽字）
國務大臣	櫻井兵五郎（簽字）
國務大臣	左近司政三（簽字）
國務大臣	下村宏（簽字）
大藏大臣	廣瀨豐作（簽字）
文部大臣	太田耕造（簽字）
農商大臣	石黑忠篤（簽字）
內務大臣	安倍源基（簽字）
外務大臣兼大東亞大臣	東鄉茂德（簽字）
國務大臣	安井藤治（簽字）
運輸大臣	小日山直登（簽字）

■ Editor's note =====

The Imperial Rescript on the Termination of the War is called “Daitōa-sensō-shūketsu-no-shōsho” (大東亞戰爭終結ノ詔書) in Japanese, abbreviated as “Sensō-no-shōsho” (終戰の詔書). “Jewel Voice Broadcast” in Japanese: Gyokuon-hōsō (玉音放送). It was broadcast in Japan's radio network on Aug. 15, 1945.

General Order No. 1

J.C.S. 1467/2
17 August 1945
JOINT CHIEFS OF STAFF
INSTRUMENTS FOR THE SURRENDER OF JAPAN
GENERAL ORDER NO. 1

Note by the Secretaries

General order No. 1 (Enclosure), as approved by the President for issue by the Japanese Imperial General Headquarters by direction of the Emperor, is circulated for information.

The President approved it with the understanding that it is subject to change both by further instructions issued through the Joint Chiefs of Staff and by changes in matters of detail made by the Supreme Commander for the Allied Powers in the light of the operational situation as known by him.

ENCLOSURE (GENERAL ORDER NO. 1) SWNCC21/8

General Order No. 1

MILITARY AND NAVAL

1. The Imperial General Headquarters by direction of the Emperor, and pursuant to the surrender to the Supreme Commander for the Allied Powers of all Japanese armed forces by the Emperor, hereby orders all of its commanders in Japan and abroad to cause the Japanese armed forces and Japanese-controlled forces under their

command to cease hostilities at once, to lay down their arms, to remain in their present locations and to surrender unconditionally to commanders acting on behalf of the United States, the Republic of China, the United Kingdom and the British Empire, and the Union of Soviet Socialist Republics, as indicated hereafter or as may be further directed by the Supreme Commander for the Allied Powers. Immediate contact will be made with the indicated commanders, or their designated representatives, subject to any changes in detail prescribed by the Supreme Commander for the Allied Powers, and their instructions will be completely and immediately carried out.

- a. The senior Japanese commanders and all ground, sea, air and auxiliary forces within China (excluding Manchuria), Formosa and French Indo-China north of 16 north latitude shall surrender to Generalissimo Chiang Kai-shek.
- b. The senior Japanese commanders and all ground, sea, air and auxiliary forces within Manchuria, Korea north of 38 north latitude and Karafuto shall surrender to the Commander in Chief of Soviet Forces in the Far East.
- c. The senior Japanese commanders and all ground, sea, air and auxiliary forces within the Andamans, Nicobars, Burma, Thailand, French Indo-China south of 16 degrees north latitude, Malaya, Borneo, Netherlands Indies, New Guinea, Bismarcks and the Solomons, shall surrender to (the Supreme Allied Commander South East Asia Command or the Commanding General, Australian Forces--the exact breakdown between Mountbatten and the Australians to be arranged between them and the details of this paragraph then prepared by the Supreme Commander for the Allied Powers).
- d. The senior Japanese commanders and all ground, sea, air and auxiliary forces in the Japanese Mandated Islands, Ryukyus, Bonins, and other Pacific Islands shall surrender to the Commander in Chief U. S. Pacific Fleet.
- e. The Imperial General Headquarters, its senior commanders, and all ground, sea, air and auxiliary forces in the main islands of Japan, minor islands adjacent thereto, Korea south of 38 north latitude, and the Philippines shall surrender to the Commander in Chief, U. S. Army Forces in the Pacific.
- f. The above indicated commanders are the only representatives of the Allied Powers empowered to accept surrenders and all surrenders of Japanese Forces shall be made only to them or to their representatives.

The Japanese Imperial General Headquarters further orders its commanders in Japan and abroad to disarm completely all forces of Japan or under Japanese control, wherever they may be situated and to deliver intact and in safe and good condition all weapons and equipment at such time and at such places as may be prescribed by the Allied Commanders indicated above. (Pending further instructions, the Japanese police force in the main islands of Japan will be exempt from this disarmament provision. The police force will remain at their posts and shall be held responsible for the preservation of law and order. The strength and arms of such a police force will be prescribed.)

2. The Japanese Imperial General Headquarters shall furnish to the Supreme Commander for the Allied Powers, within (time limit) of receipt of this order, complete information with respect to Japan and all areas under Japanese control as follows:
 - (a) Lists of all land, air and anti-aircraft units showing locations and strengths in officers and men.
 - (b) Lists of all aircraft, military, naval and civil giving complete information as to the number, type, location and condition of such aircraft.
 - (c) Lists of all Japanese and Japanese-controlled naval vessels, surface and submarine and auxiliary naval craft in or out of commission and under construction giving their position, condition and movement.
 - (d) Lists of all Japanese and Japanese-controlled merchant ships of over 100 gross tons, in or out of commission and under construction, including merchant ships formerly belonging to any of the United Nations which are now in Japanese hands, giving their position condition and movement.
 - (e) Complete and detailed information, accompanied by maps, showing location and layouts of all mines, minefields and other obstacles to movement by land, sea or air and the safety lanes in connection therewith.
 - (f) Locations and descriptions of all military installations and establishments, including airfields, seaplane bases, anti-aircraft defenses, ports and naval bases, storage depots, permanent and temporary land and coast fortifications, fortresses and other fortified areas.
 - (g) Locations of all camps and other places of detention of United Nations prisoners of war and civilian internees.

3. Japanese armed forces and civil aviation authorities will insure that all Japanese military, naval and civil aircraft remain on the ground on the water or aboard ship until further notification of the disposition to be made of them.
4. Japanese or Japanese-controlled naval or merchant vessels of all types will be maintained without damage and will undertake no movement pending instructions from the Supreme Commander for the Allied Powers. Vessels at sea will immediately render harmless and throw overboard explosives of all types. Vessels not at sea will immediately remove explosives of all types to safe storage ashore.
5. Responsible Japanese or Japanese-controlled military and civil authorities will insure that:
 - a. All Japanese mines, minefields and other obstacles to movement by land, sea and air, wherever located, be removed according to instructions of the Supreme Commander for the Allied Powers.
 - b. All aids to navigation be reestablished at once.
 - c. All safety lanes be kept open and clearly marked pending accomplishment of a. above.
6. Responsible Japanese and Japanese-controlled military and civil authorities will hold intact and in good condition pending further instructions from the Supreme Commander for the Allied Powers the following:
 - a. All arms, ammunition, explosives, military equipment, stores and supplies and other implements of war of all kinds and all other war material (except as specifically prescribed in Section 4 of this order).
 - b. All land, water and air transportation and communication facilities and equipment.
 - c. All military installations and establishments, including airfields, seaplane bases, anti-aircraft defenses, ports and naval bases, storage depots, permanent and temporary land and coast fortifications, fortresses and other fortified areas, together with plans and drawings of all such fortifications, installations and establishments.
 - d. All factories, plants, shops, research institutions, laboratories, testing stations, technical data, patents, plans, drawings and inventions designed or intended to produce or facilitate the production or use of all implements of war and other material and property used by or intended for use by any military or paramilitary organizations in connection with their operations.
7. The Japanese Imperial General Headquarters shall furnish to the Supreme Commander for the Allied Powers, within (time limit) of receipt of this order, complete lists of all the items specified in paragraph a, b and d of Section 6 above, indicating the numbers, types and locations of each.
8. The manufacture and distribution of all arms, ammunition and implements of war will cease forthwith.
9. With respect to United Nations prisoners of war and civilian internees in the hands of Japanese or Japanese-controlled authorities:
 - a. The safety and well-being of all United Nations prisoners of war and civilian internees will be scrupulously preserved to include the administrative and supply services essential to provide adequate food shelter, clothing and medical care until such responsibility is undertaken by the Supreme Commander for the Allied Powers;
 - b. Each camp or other place of detention of United Nations prisoners of war and civilian internees together with nits equipment, stores, records, arms and ammunition will be delivered immediately to the command of the senior officer or designated representative of the prisoner of war and civilian internees;
 - c. As directed by the Supreme Commander for the Allied Powers, prisoners of war and civilian internees will be transported to places of safety where they can be accepted by allied authorities;
 - d. The Japanese Imperial General Headquarters will furnish to the Supreme Commander for the Allied Powers, within (time limit) of the receipt of this order, complete lists of all United Nations prisoners of war and civilian internees, indicating their location.
10. All Japanese and Japanese-controlled military and civil authorities shall aid and assist the occupation of Japan and Japanese-controlled areas by forces of the Allied Powers.
11. The Japanese Imperial General Headquarters and appropriate Japanese officials shall be prepared on instructions from Allied occupation commanders to collect and deliver all arms in the possession of the Japanese civilian population.
12. This and all subsequent instructions issued by the Supreme Commander for the Allied Powers or other allied military authorities will be scrupulously and promptly obeyed by Japanese and Japanese-controlled military and civil officials and private persons. Any delay or failure to comply with the provisions of this or subsequent orders and any action which the Supreme Commander for the Allied Powers determines to be detrimental to the Allied Powers, will incur drastic and summary punishment at the hands of allied military authorities and the Japanese Government.

一般命令第一號

- 一、日本帝國大本營遵奉日本天皇之指示，下令「所有日本軍隊」向盟軍最高統帥（麥克阿瑟元帥）投降。茲令所有日本帝國內外之司令官，使其在其指揮之下之日本軍隊以及日本管制之軍隊，立刻停止戰鬥行為、放下武器、駐在其現時所在地點，並向代表美國、中國、英國、蘇聯之司令官，如下列指定或如盟軍最高統帥所追加指定者，無條件投降。應立即連繫指定之司令官或其指定之代表，並接受盟軍最高統帥對於詳細規定的指示變更，各司令官及其代表之命令應馬上完全地執行。
 - 甲、在中國（滿洲除外）、台灣及北緯十六度以北之法屬印度支那境內之日軍高階司令官及所有陸、海、空軍及輔助部隊應向蔣介石統帥投降。
 - 乙、在滿洲、北緯三十八度以北之朝鮮半島部份及庫頁島境內之日軍高階司令官及所有陸、海、空軍及輔助部隊應向遠東蘇軍總司令官投降。
 - 丙、在安達曼群島、尼科巴群島、緬甸、泰國、北緯十六度以南之法屬印度支那、馬來亞、婆羅洲、荷屬印度、新幾內亞、俾斯麥群島及所羅門群島境內之日軍高階司令官及所有陸、海、空軍及輔助部隊應向東南亞盟軍司令部最高統帥或澳大利亞軍隊之司令官投降，蒙巴頓與澳軍之確實劃分，由其自行商定後，再由盟軍最高統帥對於此節詳細規定。
 - 丁、在日本委任統治各島、琉球群島、小笠原群島及其他太平洋島嶼之日軍高階司令官及所有陸、海、空軍及輔助部隊應向美國太平洋艦隊總司令投降。
 - 戊、日本帝國大本營在日本主要島嶼、附近各小島、北緯三十八度以南之朝鮮半島及菲律賓之日軍高階司令官及所有陸、海、空軍及輔助部隊應向美國太平洋艦隊陸軍總司令投降。
 - 己、上述各指定司令官為唯一授權接受投降之同盟國代表，所有日本軍隊應只向彼等或其代表投降。

日本帝國大本營且命令其在日本及國外之各司令官，將日軍部隊及在日本策劃下之部隊，無論在何地點完全解除武器，並在同盟國司令官所指定之時間及地點，將所有武器及裝備完整與安全的繳出（在日本本土之日本警察，在另有命令以前，得免受此項解除武裝之規定。警察部隊各留崗位，並應負責維持法律與秩序。此類警察部隊之人數及武裝另行規定之）。
- 二、日本帝國大本營應在收到此命令（若干日）內，以關於日本及在日本管制下各地區之全部情報供給盟軍最高統帥，如下：
 - 甲、關於一切陸上、空中及防空單位之明細表，說明此類官佐士兵之地點與人數。
 - 乙、所有陸軍、海軍和民用飛機之數量、型式、位置及狀態的完整資料明細表。
 - 丙、日本帝國及日本帝國控制下之所有海軍艦艇明細表，如水上及潛艇和輔導海軍艦艇，無論其係服役中、非服役中或建造中，均須提出其位置、狀態和航行資料。
 - 丁、日本帝國及日本帝國控制下總噸數超過一百噸之商船明細表（包括以往曾屬於同盟國，但現為日本帝國權力範圍內者），無論其係服役中、非服役中或建造中，均須提出其位置、狀態和航行資料。
 - 戊、現出所有地雷、水雷及其他對陸、海、空造成行動障礙之障礙物的位置與佈局，以及與上述相關之安全通道的完整、詳細且附有地圖之資料。
 - 己、包含機場、水上飛機基地、防空設施、港口及海軍基地、油庫、常設與臨時的陸上及海岸防禦碉堡、要塞及其他設防區在內之所有軍事設施和建築之位置及說明。
 - 庚、所有同盟國俘虜及被拘留平民之收容所或其他拘留場所的位置。
- 三、在接獲進一步部署的通知之前，日軍及民間航空當局之一切日本帝國陸、海軍及民用航空機，須確實停留於其所在之陸上、海上及艦上之定點。
- 四、在接獲盟軍最高統帥指示之前，日本帝國或日本帝國控制下之所有型式的海軍艦艇或商船，須毫無損傷地加以保存且不得加以移動。至於航海中之船舶須立即放下武器使其無害，並將所有種類之爆炸物拋入海中，而非航海中之船舶則須立即將所有種類之爆炸物移至岸上安全貯藏處所。
- 五、日本帝國及日本帝國控制下負有責任之軍事政府及民間政府，須確實執行下列事項：
 - 甲、所有日本帝國內埋藏地雷、水雷及其他對陸、海、空行動之障礙物，無其位於任何地點，均須依盟軍最高統帥之指示予以去除。
 - 乙、立即修復所有便於航海之設施。
 - 丙、在前項實施完成之前，須開放且明白標示所有安全通路。
- 六、日本帝國及日本帝國控制下負有責任之軍事政府及民間政府，在接獲盟軍最高統帥進一步指示之前，應將下列事物保持原狀且儘量維持良好狀態。
 - 甲、所有種類之武器、彈藥、爆炸物、軍用裝備、貯藏品、軍需品、軍用器材，及一切軍用物資

- (除本命令第四項之特別規定外)
- 乙、所有陸上、水上及空中運輸和通訊設施與設備。
- 丙、所有機場、水上飛機基地、防空設施、港口及海軍基地、油庫、常設與臨時的陸上及海岸防禦碉堡，要塞及其他設防區，包含所有這些防禦設施、軍事設施和建築之圖面。
- 丁、所有工廠、製造場所、工作場所、研究所、實驗所、試驗所、技術數據、專利、設計、圖面及發明，以用來設計或意圖製造、或促成生產，做為提供任何軍事機關或準軍事組織運作所使用的，或意圖使用的所有軍用器材與其他物資，及做為物業用途。
- 七、日本帝國大本營於接獲本命令後，應毫無延遲就上面第六項甲、乙、丁中指定之所有項目，將其關於各自數量、型式及位置之完整明細表，提供給盟軍最高統帥。
- 八、所有兵器、彈藥及軍用器材之製造及分配應立即終止。
- 九、關於日本帝國或日本帝國控制下之政權掌握之同盟國俘虜及被拘留平民：
- 甲、須嚴謹的維持所有同盟國俘虜及被拘留平民之安全及福祉，至盟軍最高統帥接替其責任為止，須提供包括充足的食物、住所、服裝及醫療在內之必要的管理及補給業務。
- 乙、應立即將同盟國俘虜及被拘留平民所在之收容所及其他拘留所之設備、貯藏品、記錄、武器及彈藥，移交給俘虜及被拘留平民裡面之高階軍官或指定之代表，並置於其指揮之下。
- 丙、依盟軍最高統帥所指示之地點，將俘虜及被拘留平民運送至同盟國當局能交接之安全處所。
- 丁、日本帝國大本營於接獲本命令之後，應毫無延遲地將所有同盟國俘虜及被拘留平民所在地點之明細表，提供給盟軍最高統帥。
- 十、所有日本帝國及日本帝國統治下之軍事政府及民間政府，應協助同盟國軍隊佔領日本帝國及日本帝國統治地域。
- 十一、日本帝國大本營及日本帝國軍官應做成準備，在同盟國佔領軍司令官有所指示之際，收集且移交一般日本帝國國民所有之一切武器。
- 十二、日本帝國及日本帝國統治下之軍部、行政官員及無官職人員，應嚴格且迅速服從本命令及爾後盟軍最高統帥或其他同盟國軍事當局所發出之一切指示，若有遲延或不遵守本命令和爾後任何命令之規定者，以及被盟軍最高統帥認為係對同盟國有害之行為時，同盟國軍事當局及日本帝國政府將立即加以嚴懲。

■ Editor's note =====

General Order No. 1 was General Douglas MacArthur's first order to the forces of the Empire of Japan following the surrender of Japan, and its final form was approved by US President Harry S. Truman on Aug. 17, 1945. It instructed Japanese forces to surrender to designated Allied commanders, reveal all current military deployments, and preserve military equipment for later disarmament. General Order No. 1 became known to the world when it was announced at the Japanese Surrender Ceremony on Sept. 2, 1945, being issued by Japan's Imperial General Headquarters that day. Please note that this document is also often referred to as "SCAP General Order No. 1", SCAP standing for "Supreme Commander for the Allied Powers" or "Supreme Command of Allies in the Pacific" (in Chinese: *zhū Rì měngjūn zōngsīlǐng* 駐日盟軍總司令, in Japanese: *rengō kokugun saikō shireikan sōshireibu* 連合國軍最高司令官總司令部). Some sources use the heading "Surrender Order of the Imperial General Headquarters of Japan".

Japan's First Instrument of Surrender

We, acting by command of and in behalf of the Emperor of Japan, the Japanese Government and the Japanese Imperial General Headquarters, hereby accept the provisions set forth in the declaration issued by the Heads of the Governments of the United States, China, and Great Britain on 26 July 1945 at Potsdam, and subsequently adhered to by the Union of Soviet Socialist Republics, which four powers are hereafter referred to as the Allied Powers.

We hereby proclaim the unconditional surrender to the Allied Powers of the Japanese Imperial General Headquarters and of all Japanese armed forces and all armed forces under the Japanese control wherever situated.

We hereby command all Japanese forces wherever situated and the Japanese people to cease hostilities forthwith, to preserve and save from damage all ships, aircraft, and military and civil property and to comply with all requirements which may be imposed by the Supreme Commander for the Allied Powers or by agencies of the Japanese Government at his direction.

We hereby command the Japanese Imperial Headquarters to issue at once orders to the Commanders of all Japanese forces and all forces under Japanese control wherever situated to surrender un- conditionally themselves and all forces under their control.

We hereby command all civil, military and naval officials to obey and enforce all proclamations, and orders and directives deemed by the Supreme Commander for the Allied Powers to be proper to effectuate this surrender and issued by him or under his authority and we direct all such officials to remain at their posts and to continue to perform their non-combatant duties unless specifically relieved by him or under his authority.

We hereby undertake for the Emperor, the Japanese Government and their successors to carry out the provisions of the Potsdam Declaration in good faith, and to issue whatever orders and take whatever actions may be required by the Supreme Commander for the Allied Powers or by any other designated representative of the Allied Powers for the purpose of giving effect to that Declaration.

We hereby command the Japanese Imperial Government and the Japanese Imperial General Headquarters at once to liberate all allied prisoners of war and civilian internees now under Japanese control and to provide for their protection, care, maintenance and immediate transportation to places as directed.

The authority of the Emperor and the Japanese Government to rule the state shall be subject to the Supreme Commander for the Allied Powers who will take such steps as he deems proper to effectuate these terms of surrender.

Signed at TOKYO BAY, JAPAN at 0904 I on the SECOND day of SEPTEMBER, 1945

Mamoru Shiegemitsu *(By Command and on Behalf of the Emperor of Japan and the Japanese Government)*

Yoshijiro Umezu *(By Command and on Behalf of the Japanese Imperial General Headquarters)*

Accepted at TOKYO BAY, JAPAN at 0903 I on the SECOND day of SEPTEMBER, 1945, for the United States, Republic of China, United Kingdom and the Union of Soviet Socialist Republics, and in the interests of the other United Nations at war with Japan.

Douglas MacArthur *(Supreme Commander for the Allied Powers)*

C. W. Nimitz *(United States Representative)*

Hsu Yung-ch'ang *(Republic of China Representative)*

Bruce Fraser *(United Kingdom Representative)*

Kuzma Derevyanko *(Union of Soviet Socialist Republics Representative)*

Thomas Blamey *(Commonwealth of Australia Representative)*

L. Moore Cosgrave *(Dominion of Canada Representative)*

Jacques LeClerc *(Provisional Government of the French Republic Representative)*

C. E. L. Helfrich *(Kingdom of the Netherlands Representative)*

Leonard M. Isitt *(Dominion of New Zealand Representative)*

日本投降書

餘等茲對合衆國、中華民國及大不列顛帝國，各國政府首腦于 1945 年 7 月 26 日於波茨坦宣佈，爾後由蘇維埃社會主義共和國聯邦之參加宣言條款，並根據日本國政府、天皇及日本帝國大本營之命令代表受諾之；右述四國以後稱之為聯合國。

餘等此佈告，無論日本帝國、大本營及任何地方所有之日本國軍隊與日本國所支配下之一切軍隊，悉對聯合國無條件投降。

餘等茲命令任何地方之一切日本國軍隊及日本國臣民，即刻停止敵對行為，保存所有船舶及軍用財產，且防止損毀，並服從聯合國最高司令官及其指示，對日本國政府之各機關所課之一切要求應予以應諾。

餘等此命令日本帝國大本營，對於任何地方之一切日本國軍隊，及由日本國支配下之一切軍隊指揮官，速即發佈其本身或其支配下之一切軍隊無條件投降之命令。

餘等茲對所有官廳、陸軍及海軍之職員，命令其遵守且施行聯合國最高司令官為實施此投降之檔，認為適當而由其自己發出或根據其委任發出之一切佈告及指示，且命令右開職員除由聯合國最高司令官，或根據其事務委任與解除其任務以外均須留於各自原有地位，且仍繼續行使各個之非戰鬥任務。

余等茲為天皇、日本國政府及其繼續者，承約切實履行波茨坦宣言之條款，發佈為實施該宣言之聯合國最高司令官及其他特派聯合國代表要求之一切命令，且實施一切措置。

餘等茲對日本國政府及日本帝國大本營命令，即速解放現由日本國支配下，所有聯合國俘虜及被拘留者，且執行對彼等之保護，津貼給養及對指定地點迅速運輸等措置。

天皇及日本國政府統治國家之權，限置於為實施投降條款採用認為適當措置之聯合國最高司令官之限制下。

1945年9月2日午前9時4分于東京灣密蘇裏號艦上簽字之，並根據大日本帝國天皇陛下及日本國政府之命令且以其名義。

根據日本帝國大本營之命令且以其名義 重光葵
梅津美治郎

1945年9月2日午前9時4分於東京灣為合眾國、中華民國、聯合王國及蘇維埃社會主義共和國聯邦及與日本國存在戰爭狀態之其他聯合國之利益受諾之。

聯合國最高司令官	道格拉斯·麥克阿瑟 元帥
合眾國代表	尼米茲 元帥
中華民國代表	徐永昌 上將
聯合王國代表	福拉塞 上將
蘇維埃社會主義共和國代表	狄裏夫揚柯 中將
澳大利亞聯邦代表	布萊梅
加拿大代表	哥斯格洛夫
法蘭西代表	萊克勒
荷蘭代表	赫夫裏區
新西蘭代表	依西特

■ Editor's note =====

In Japanese, this document is called “Nipponno kōfuku bunsho” (日本の降伏文書).

Act of Surrender

1. The Emperor of Japan, the Japanese government and the Japanese Imperial General Headquarters, having recognized the complete military defeat of the Japanese military forces by the Allied forces and having surrendered unconditionally to the Supreme Commander for the Allied powers.
2. The Supreme Commander for the Allied powers directed by his General Order No. 1 that the senior commanders and all ground, sea, air and auxiliary forces of Japan within China excluding Manchuria, Formosa and French Indo-China north of 16 degrees north latitude shall surrender to Generalissimo Chiang Kai-shek.
3. We, the Japanese Commanders of all Japanese forces and auxiliaries in the areas named above, also recognizing the complete military defeat of the Japanese military forces by the Allied forces, hereby surrender unconditionally all of the forces under our command to Generalissimo Chiang Kai-shek.
4. All the Japanese forces hereby surrendered will cease hostilities and will remain at the stations they now occupy. They are now non-combatant troops and in due course will be demobilized.
5. They will assemble, preserve without damage, and turn over to the forces specified by Generalissimo Chiang Kai-shek, all arms, ammunition, equipment, supplies, records, information and other assets of any kind belonging to the Japanese forces. Pending specific instructions, all Japanese aircraft, naval units, and merchant ships in the areas named above will be held without damage where they are at present located.
6. All the Allied prisoners of war and civilian internees now under Japanese control in the areas named above will be liberated at once and the Japanese forces will provide protection, care, maintenance, and transportation to places as directed.
7. Henceforth, all the Japanese forces, hereby surrendered, will be subject to the control of Generalissimo Chiang Kai-shek. Their movements and activities will be dictated by him, and they will obey only the orders and proclamations issued, or authorised, by him, or the orders of their Japanese commanders based upon his instructions.
8. This act of surrender and all subsequent orders and proclamations of Generalissimo Chiang Kai-shek to the surrender forces will be issued at once to the appropriate subordinate commanders and forces and it will be the responsibility of all Japanese commanders and forces to see that such proclamations and orders are immediately and completely complied with.

9. For any failure or delay, by any member of the forces surrendered hereby to act in accordance with this act of surrender or future orders or proclamations of the Generalissimo, he will summarily and drastically punish both the violator and his responsible commanders.

Lieutenant General *Okamura Yasuji*, Signatory under orders of the Emperor of Japan, the Japanese government and the Japanese Imperial General Headquarters, and Commander of the Japanese Forces in Central China. (Signature and official seal)

Signed at 9.00 a.m. on Sept. 9 in the 20th year of Showa (1945 AD) in Nanjing, Republic of China.

The Representative of the Republic of China, the United States of America, the United Kingdom of Great Britain, the Union of Soviet Socialist Republics, and the other Allied Forces at war with Japan, accepted this act of surrender at 9.00 a.m. on Sept. 9 in the 34th year of the Republic of China (1945 AD) in Nanjing, Republic of China.

Army General *Ho Ying-chen*, Special Envoy of Supreme Commander in the China Theatre Generalissimo Chiang Kai-shek, and Commander-in-Chief of the Chinese Army. (Signature and official seal)

降書

- 一、日本帝國政府及日本帝國大本營已向聯合國最高統帥無條件投降。
- 二、聯合國最高統帥第一號命令規定在「中華民國（東三省除外）臺灣與越南北緯十六度以北地區內之日本全部陸、海、空軍與輔助部隊應向蔣委員長投降」。
- 三、吾等在上述區域內之全部日本陸海空軍及輔助部隊之將領，願率領所屬部隊，向蔣委員長無條件投降。
- 四、本官當立即命令所有上第二款所述區域內之全部日本陸、海、空各級指揮官，及其所屬部隊與所控制之部隊，向蔣委員長特派受降代表中國戰區中國陸軍總司令何應欽上將及何應欽上將指定之各地區受降主官投降。
- 五、投降之全部日本陸、海、空軍立即停止敵對行動，暫留原地待命，所有武器、彈藥、裝具、器材、補給品、情報資料、地圖、文獻檔案及其他一切資產等，當暫時保管。所有航空器及飛機場一切設備，艦艇、船舶、車輛、碼頭、工廠、倉庫及一切建築物，以及現在上第二款所述地區內日本陸、海、空軍或其控制之部隊所有或所控制之軍用或民用財產，亦均保持完整，全部待繳於蔣委員長及其代表何應欽上將所指定之部隊及政府機關代表接收。
- 六、上第二款所述區域內日本陸、海、空軍所俘聯合國戰俘及拘留之人民，立予釋放，並保護送至指定地點。
- 七、自此以後，所有上第二款所述區域內之日本陸、海、空軍當即服從蔣委員長之節制，並接受蔣委員長及其代表何應欽上將所頒發之命令。
- 八、本官對本降書所列各款及蔣委員長與其代表何應欽上將以後對投降日軍所頒發之命令，當立即對各級軍官及士兵轉達遵照，上第二款所述地區之所有日本軍官佐士兵，均須負完全履行此項命令之責。
- 九、投降之日本陸、海、空軍任何人員，對於本降書所列各款及蔣委員長與其代表何應欽上將嗣後所授之命令，倘有未能履行或遲延情事，各級負責官長及違反命令者願受懲罰。

奉日本帝國政府及日本帝國大本營命簽字人中國派遣軍總司令官陸軍大將 岡村寧次（簽字蓋章）

昭和二十年（公曆一九四五年）九月九日午前九時零分簽字於中華民國南京。

代表中華民國、美利堅合眾國，大不列顛聯合王國、蘇維埃社會主義共和國聯邦，並為對日本作戰之其他聯合國之利益，接受本降書於中華民國三十四年（公曆一九四五年）九月九日午前九時零分簽字於中華民國南京。

中國戰區最高統帥特級上將蔣中正特派代表中國陸軍總司令陸軍一級上將 何應欽（簽字蓋章）

Supreme Commander for the Allied Powers Instruction No. 677

Governmental and Administrative Separation of Certain Outlying Areas from Japan

GENERAL HEADQUARTERS of Supreme Commander for Allied Powers

GENERAL HEADQUARTERS

SUPREME COMMANDER FOR THE ALLIED POWERS

APO 500

20 January 1946

AG 091 (29 Jan 46) GS

(SCAPIN - 677)

MEMORANDUM FOR: IMPERIAL JAPANESE GOVERNMENT.

THROUGH: Central Liaison Office, Tokyo.

SUBJECT: Governmental and Administrative Separation of Certain Outlying Areas from Japan.

1. The Imperial Japanese Government is directed to cease exercising, or attempting to exercise, governmental or administrative authority over any area outside of Japan, or over any government officials and employees or any other persons within such areas.
2. Except as authorized by this Headquarters, the Imperial Japanese Government will not communicate with government officials and employees or with any other persons outside of Japan for any purpose other than the routine operation of authorized shipping, communications and weather services.
3. For the purpose of this directive, Japan is defined to include the four main islands of Japan (Hokkaido, Honshu, Kyushu and Shikoku) and the approximately 1,000 smaller adjacent islands, including the Tsushima Islands and the Ryukyu (Nansei) Islands north of 30° North Latitude (excluding Kuchinoshima Island); and excluding (a) Utsuryo (Ullung) Island, Liancourt Rocks (Take Island) and Quelpart (Saishu or Cheju) Island, (b) the Ryukyu (Nansei) Islands south of 30° North Latitude (including Kuchinoshima Island), the Izu, Nanpo, Bonin (Ogasawara) and Volcano (Kazan or Iwo) Island Groups, and all the other outlying Pacific Islands [including the Daito (Ohigashi or Oagari) Island Group, and Parece Vela (Okino-tori), Marcus (Minami-tori) and Ganges (Nakano-tori) Islands], and (c) the Kurile (Chishima) Islands, the Habomai (Hapomaze) Island Group (including Suisho, Yuri, Akiyuri, Shibotsu and Taraku Islands) and Shikotan Island.
4. Further areas specifically excluded from the governmental and administrative jurisdiction of the Imperial Japanese Government are the following: (a) all Pacific Islands seized or occupied under mandate or otherwise by Japan since the beginning of the World War in 1914, (b) Manchuria, Formosa and the Pescadores, (c) Korea, and (d) Karafuto.
5. The definition of Japan contained in this directive shall also apply to all future directives, memoranda and orders from this Headquarters unless otherwise specified therein.
6. Nothing in this directive shall be construed as an indication of Allied policy relating to the ultimate determination of the minor islands referred to in Article 8 of the Potsdam Declaration.
7. The Imperial Japanese Government will prepare and submit to this Headquarters a report of all governmental agencies in Japan the functions of which pertain to areas outside a statement as defined in this directive. Such report will include a statement of the functions, organization and personnel of each of the agencies concerned.
8. All records of the agencies referred to in paragraph 7 above will be preserved and kept available for inspection by this Headquarters.

FOR THE SUPREME COMMANDER: H.W. Allen

Colonel, AGD.

Asst. Adjutant General

Temporary Provisions Effective During the Period of the Communist Rebellion

(Adopted by the National Assembly on April 18, 1948, promulgated by the National Government on May 10, 1948, amended by the National Assembly on March 11, 1960, Amended by the extraordinary session of the National Assembly on February 7, 1966, amended by the National Assembly at its ninth plenary meeting March 17, 1972)

In accordance with the procedure prescribed in Paragraph 1 of Article 174 of the Constitution, the following Temporary Provisions to be effective during the Period of Communist Rebellion are hereby enacted:

1. The President during the Period of Communist Rebellion may, by resolution of the Executive Yuan Council, take emergency measures to avert any imminent danger to the security of the State or of the people or to cope with any serious financial or economic crisis, without being subject to the procedural restrictions prescribed in Article 39 or Article 43 of the Constitution.

2. The emergency measures mentioned in the preceding paragraph may be modified or abrogated by the Legislative Yuan in accordance with Paragraph 2 of Article 57 of the Constitution.
3. During the Period of the Communist Rebellion, the President and the Vice President may be reelected without being subject to the two-term restriction prescribed in Article 47 of the Constitution.
4. During the period of Communist Rebellion, the President is authorized to establish, in accordance with the constitutional system, an organ for making major policy decisions concerned with national mobilization and suppression of the Communist rebellion and for assuming administrative control in war zones.
5. To meet the requirements of national mobilization and suppression of the Communist rebellion, the President may make adjustments in the administrative and personnel organs of the Central Government, as well as their organizations.
6. During the period of national mobilization and the suppression of the Communist rebellion, the President may, in accordance with the following stipulations, initiate and promulgate for enforcement regulations providing for elections to strengthen elective offices at the Central Government level without being subject to the restrictions prescribed in Article 26, Article 64, or Article 91 of the Constitution:
 - (1) In free areas, additional members of the National Assembly, the Legislative Yuan, and the Control Yuan may be added through regular elections. Members of the Legislative Yuan and Control Yuan that must be elected by Chinese citizens living abroad who are unable to hold elections shall be chosen according to regulations established by the President of the Republic.
 - (2) Representatives elected to the National Assembly, Legislative Yuan, and Control Yuan in the first elections were chosen through popular vote by the people of the entire nation. These representatives exercise their powers of office in accordance with law; the same principle applies to the representatives elected to fill vacancies or provide additional representation.
Elections for the National Assembly, Legislative Yuan, and Control Yuan shall be held on the Chinese mainland, one by one, as each area is recovered.
 - (3) Additional members elected to serve in the national Assembly, Legislative Yuan, and Control Yuan, shall exercise the same powers of office in accordance with law as the members elected in the first elections.
Additional members of the National Assembly shall stand for reelection every six years; members of the Legislative Yuan, every three years; and members of the Control Yuan, every six years.
7. During the Period of Communist Rebellion, the National Assembly may enact measures to initiate principles concerning Central Government laws and submit Central Government laws to referendum without being subject to the restriction prescribed in Paragraph 2 of Article 27 of the Constitution.
8. During the Period of Communist Rebellion, the President may, when he deems necessary, convoke an extraordinary session of the National Assembly to discuss initiative or referendum measures.
9. The National Assembly shall establish an organ to study, during its recess, problems relating to constitutional rule.
10. The termination of the Period of Communist Rebellion shall be declared by the President.
11. Amendment or abrogation of the Temporary Provisions shall be resolved by the National Assembly.

動員戡亂時期臨時條款

國民大會通過於民國 61 年 3 月 17 日 (非現行條文)

公布於民國 61 年 3 月 23 日

中華民國 37 年 4 月 18 日 制定

中華民國 37 年 5 月 10 日公布國民政府制定公布

民國 43 年 3 月 11 日決議本條款繼續有效第一屆國民大會第二次會議第七次大會決議繼續有效

中華民國 49 年 3 月 11 日 修正

中華民國 49 年 3 月 11 日公布總統令修正公布

中華民國 55 年 2 月 7 日 修正

中華民國 55 年 2 月 12 日公布總統令修正公布

中華民國 55 年 3 月 19 日 修正

中華民國 55 年 3 月 22 日公布總統令修正公布

中華民國 61 年 3 月 17 日 修正

中華民國 61 年 3 月 23 日公布總統令修正公布全文 11 條

中華民國80年5月1日 總統令公布廢止

茲依照憲法第一百七十四條第一款程序，制定動員戡亂時期臨時條款如左：

第一條（總統緊急處分權）

總統在動員戡亂時期，為避免國家或人民遭遇緊急危難，或應付財政經濟上重大變故，得經行政院會議之決議，為緊急處分，不受憲法第三十九或第四十三條所規定程式之限制。

第二條（立法院緊急處分之變更或廢止權）

前項緊急處分，立法院得依憲法第五十七款第二款規定之程式變更或廢止之。

第三條（總統、副總統得連選連任）

動員戡亂時期，總統副總統得連選連任，不受憲法第四十七條連任一次之限制。

第四條（動員戡亂機構之設置）

動員戡亂時期，本憲政體制授權總統得設置動員戡亂機構，決定動員戡亂有關大政方針，並處理戰地政務。

第五條（中央行政人事機構組織之調整）

總統為適應動員戡亂需要，得調整中央政府之行政機構、人事機構及其組織。

第六條（中央民意代表之增補選）

動員戡亂時期，總統得依下列規定，訂頒辦法充實中央民意代表機構，不受憲法第二十六條、第六十四條及第九十一條之限制：

- （一）在自由地區增加中央民意代表名額，定期選舉，其須由僑居國外國民選出之立法委員及監察委員，事實上不能辦理選舉者，得由總統訂定辦法遴選之。
- （二）第一屆中央民意代表，係經全國人民選舉所產生，依法行使職權，其增選、補選者亦同。大陸光復地區次第辦理中央民意代表之選舉。
- （三）增加名額選出之中央民意代表，與第一屆中央民意代表，依法行使職權。增加名額選出之國民大會代表，每六年改選，立法委員每三年改選，選監察委員每六改選。

第七條（創制複決辦法之制定）

動員戡亂時期，國民大會得制定辦法，創制中央法律原則與複決中央法律，不受憲法第二十七條第二項之限制。

第八條（國民大會臨時會之召集）

在戡亂時期，總統對於創制案或複決案認為有必要時，得召集國民大會臨時會討論之。

第九條（憲政研究機構之設置）

國民大會於閉會期間，設置研究機構，研討憲政有關問題。

第十條（動員戡亂時期之終止）

動員戡亂時期之終止，由總統宣告之。

第十一條（臨時條款之修廢）

臨時條款之修訂或廢止，由國民大會決定之。

San Francisco Peace Treaty

Signed at San Francisco, 8 September 1951

Initial entry into force: 28 April 1952

TREATY OF PEACE WITH JAPAN

WHEREAS the Allied Powers and Japan are resolved that henceforth their relations shall be those of nations which, as sovereign equals, cooperate in friendly association to promote their common welfare and to maintain international peace and security, and are therefore desirous of concluding a Treaty of Peace which will settle questions still outstanding as a result of the existence of a state of war between them;

WHEREAS Japan for its part declares its intention to apply for membership in the United Nations and in all circumstances to conform to the principles of the Charter of the United Nations; to strive to realize the objectives of the Universal Declaration of Human Rights; to seek to create within Japan conditions of stability and well-being as defined in Articles 55 and 56 of the Charter of the United Nations and already initiated by post-surrender Japanese legislation; and in public and private trade and commerce to conform to internationally accepted fair practices;

WHEREAS the Allied Powers welcome the intentions of Japan set out in the foregoing paragraph;

THE ALLIED POWERS AND JAPAN have therefore determined to conclude the present Treaty of Peace, and have accordingly appointed the undersigned Plenipotentiaries, who, after presentation of their full powers, found in good and due form, have agreed on the following provisions:

CHAPTER I———PEACE

Article 1

(a) The state of war between Japan and each of the Allied Powers is terminated as from the date on which the present Treaty comes into force between Japan and the Allied Power concerned as provided for in Article 23.

(b) The Allied Powers recognize the full sovereignty of the Japanese people over Japan and its territorial waters.

CHAPTER II———TERRITORY

Article 2

(a) Japan recognizing the independence of Korea, renounces all right, title and claim to Korea, including the islands of Quelpart, Port Hamilton and Dagelet.

(b) Japan renounces all right, title and claim to Formosa and the Pescadores.

(c) Japan renounces all right, title and claim to the Kurile Islands, and to that portion of Sakhalin and the islands adjacent to it over which Japan acquired sovereignty as a consequence of the Treaty of Portsmouth of 5 September 1905.

(d) Japan renounces all right, title and claim in connection with the League of Nations Mandate System, and accepts the action of the United Nations Security Council of 2 April 1947, extending the trusteeship system to the Pacific Islands formerly under mandate to Japan.

(e) Japan renounces all claim to any right or title to or interest in connection with any part of the Antarctic area, whether deriving from the activities of Japanese nationals or otherwise.

(f) Japan renounces all right, title and claim to the Spratly Islands and to the Paracel Islands.

Article 3

Japan will concur in any proposal of the United States to the United Nations to place under its trusteeship system, with the United States as the sole administering authority, Nansei Shoto south of 29 deg. north latitude (including the Ryukyu Islands and the Daito Islands), Nanpo Shoto south of Sofu Gan (including the Bonin Islands, Rosario Island and the Volcano Islands) and Parece Vela and Marcus Island. Pending the making of such a proposal and affirmative action thereon, the United States will have the right to exercise all and any powers of administration, legislation and jurisdiction over the territory and inhabitants of these islands, including their territorial waters.

Article 4

(a) Subject to the provisions of paragraph (b) of this Article, the disposition of property of Japan and of its nationals in the areas referred to in Article 2, and their claims, including debts, against the authorities presently administering such areas and the residents (including juridical persons) thereof, and the disposition in Japan of property of such authorities and residents, and of claims, including debts, of such authorities and residents against Japan and its nationals, shall be the subject of special arrangements between Japan and such authorities. The

property of any of the Allied Powers or its nationals in the areas referred to in Article 2 shall, insofar as this has not already been done, be returned by the administering authority in the condition in which it now exists. (The term nationals whenever used in the present Treaty includes juridical persons.)

(b) Japan recognizes the validity of dispositions of property of Japan and Japanese nationals made by or pursuant to directives of the United States Military Government in any of the areas referred to in Articles 2 and 3.

(c) Japanese owned submarine cables connection Japan with territory removed from Japanese control pursuant to the present Treaty shall be equally divided, Japan retaining the Japanese terminal and adjoining half of the cable, and the detached territory the remainder of the cable and connecting terminal facilities.

CHAPTER III———SECURITY

Article 5

(a) Japan accepts the obligations set forth in Article 2 of the Charter of the United Nations, and in particular the obligations

- (i) to settle its international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered;
- (ii) to refrain in its international relations from the threat or use of force against the territorial integrity or political independence of any State or in any other manner inconsistent with the Purposes of the United Nations;
- (iii) to give the United Nations every assistance in any action it takes in accordance with the Charter and to refrain from giving assistance to any State against which the United Nations may take preventive or enforcement action.

(b) The Allied Powers confirm that they will be guided by the principles of Article 2 of the Charter of the United Nations in their relations with Japan.

(c) The Allied Powers for their part recognize that Japan as a sovereign nation possesses the inherent right of individual or collective self-defense referred to in Article 51 of the Charter of the United Nations and that Japan may voluntarily enter into collective security arrangements.

Article 6

(a) All occupation forces of the Allied Powers shall be withdrawn from Japan as soon as possible after the coming into force of the present Treaty, and in any case not later than 90 days thereafter. Nothing in this provision shall, however, prevent the stationing or retention of foreign armed forces in Japanese territory under or in consequence of any bilateral or multilateral agreements which have been or may be made between one or more of the Allied Powers, on the one hand, and Japan on the other.

(b) The provisions of Article 9 of the Potsdam Proclamation of 26 July 1945, dealing with the return of Japanese military forces to their homes, to the extent not already completed, will be carried out.

(c) All Japanese property for which compensation has not already been paid, which was supplied for the use of the occupation forces and which remains in the possession of those forces at the time of the coming into force of the present Treaty, shall be returned to the Japanese Government within the same 90 days unless other arrangements are made by mutual agreement.

CHAPTER IV———POLITICAL AND ECONOMIC CLAUSES

Article 7

(a) Each of the Allied Powers, within one year after the present Treaty has come into force between it and Japan, will notify Japan which of its prewar bilateral treaties or conventions with Japan it wishes to continue in force or revive, and any treaties or conventions so notified shall continue in force or be revived subject only to such amendments as may be necessary to ensure conformity with the present Treaty. The treaties and conventions so notified shall be considered as having been continued in force or revived three months after the date of notification and shall be registered with the Secretariat of the United Nations. All such treaties and conventions as to which Japan is not so notified shall be regarded as abrogated.

(b) Any notification made under paragraph (a) of this Article may except from the operation or revival of a treaty or convention any territory for the international relations of which the notifying Power is responsible, until three months after the date on which notice is given to Japan that such exception shall cease to apply.

Article 8

(a) Japan will recognize the full force of all treaties now or hereafter concluded by the Allied Powers for terminating the state of war initiated on 1 September 1939, as well as any other arrangements by the Allied Powers for or in connection with the restoration of peace. Japan also accepts the arrangements made for terminating the former League of Nations and Permanent Court of International Justice.

(b) Japan renounces all such rights and interests as it may derive from being a signatory power of the Conventions of St. Germain-en-Laye of 10 September 1919, and the Straits Agreement of Montreux of 20 July 1936, and from Article 16 of the Treaty of Peace with Turkey signed at Lausanne on 24 July 1923.

(c) Japan renounces all rights, title and interests acquired under, and is discharged from all obligations resulting from, the Agreement between Germany and the Creditor Powers of 20 January 1930 and its Annexes, including the Trust Agreement, dated 17 May 1930, the Convention of 20 January 1930, respecting the Bank for International Settlements; and the Statutes of the Bank for International Settlements. Japan will notify to the Ministry of Foreign Affairs in Paris within six months of the first coming into force of the present Treaty its renunciation of the rights, title and interests referred to in this paragraph.

Article 9

Japan will enter promptly into negotiations with the Allied Powers so desiring for the conclusion of bilateral and multilateral agreements providing for the regulation or limitation of fishing and the conservation and development of fisheries on the high seas.

Article 10

Japan renounces all special rights and interests in China, including all benefits and privileges resulting from the provisions of the final Protocol signed at Peking on 7 September 1901, and all annexes, notes and documents supplementary thereto, and agrees to the abrogation in respect to Japan of the said protocol, annexes, notes and documents.

Article 11

Japan accepts the judgments of the International Military Tribunal for the Far East and of other Allied War Crimes Courts both within and outside Japan, and will carry out the sentences imposed thereby upon Japanese nationals imprisoned in Japan. The power to grant clemency, to reduce sentences and to parole with respect to such prisoners may not be exercised except on the decision of the Government or Governments which imposed the sentence in each instance, and on recommendation of Japan. In the case of persons sentenced by the International Military Tribunal for the Far East, such power may not be exercised except on the decision of a majority of the Governments represented on the Tribunal, and on the recommendation of Japan.

Article 12

(a) Japan declares its readiness promptly to enter into negotiations for the conclusion with each of the Allied Powers of treaties or agreements to place their trading, maritime and other commercial relations on a stable and friendly basis.

(b) Pending the conclusion of the relevant treaty or agreement, Japan will, during a period of four years from the first coming into force of the present Treaty

(1) accord to each of the Allied Powers, its nationals, products and vessels

(i) most-favoured-nation treatment with respect to customs duties, charges, restrictions and other regulations on or in connection with the importation and exportation of goods;

(ii) national treatment with respect to shipping, navigation and imported goods, and with respect to natural and juridical persons and their interests — such treatment to include all matters pertaining to the levying and collection of taxes, access to the courts, the making and performance of contracts, rights to property (tangible and intangible), participating in juridical entities constituted under Japanese law, and generally the conduct of all kinds of business and professional activities;

(2) ensure that external purchases and sales of Japanese state trading enterprises shall be based solely on commercial considerations.

(c) In respect to any matter, however, Japan shall be obliged to accord to an Allied Power national treatment, or most-favored-nation treatment, only to the extent that the Allied Power concerned accords Japan national treatment

or most-favored-nation treatment, as the case may be, in respect of the same matter. The reciprocity envisaged in the foregoing sentence shall be determined, in the case of products, vessels and juridical entities of, and persons domiciled in, any non-metropolitan territory of an Allied Power, and in the case of juridical entities of, and persons domiciled in, any state or province of an Allied Power having a federal government, by reference to the treatment accorded to Japan in such territory, state or province.

(d) In the application of this Article, a discriminatory measure shall not be considered to derogate from the grant of national or most-favored-nation treatment, as the case may be, if such measure is based on an exception customarily provided for in the commercial treaties of the party applying it, or on the need to safeguard that party's external financial position or balance of payments (except in respect to shipping and navigation), or on the need to maintain its essential security interests, and provided such measure is proportionate to the circumstances and not applied in an arbitrary or unreasonable manner.

(e) Japan's obligations under this Article shall not be affected by the exercise of any Allied rights under Article 14 of the present Treaty; nor shall the provisions of this Article be understood as limiting the undertakings assumed by Japan by virtue of Article 15 of the Treaty.

Article 13

(a) Japan will enter into negotiations with any of the Allied Powers, promptly upon the request of such Power or Powers, for the conclusion of bilateral or multilateral agreements relating to international civil air transport.

(b) Pending the conclusion of such agreement or agreements, Japan will, during a period of four years from the first coming into force of the present Treaty, extend to such Power treatment not less favorable with respect to air-traffic rights and privileges than those exercised by any such Powers at the date of such coming into force, and will accord complete equality of opportunity in respect to the operation and development of air services.

(c) Pending its becoming a party to the Convention on International Civil Aviation in accordance with Article 93 thereof, Japan will give effect to the provisions of that Convention applicable to the international navigation of aircraft, and will give effect to the standards, practices and procedures adopted as annexes to the Convention in accordance with the terms of the Convention.

CHAPTER V ——— CLAIMS AND PROPERTY

Article 14

(a) It is recognized that Japan should pay reparations to the Allied Powers for the damage and suffering caused by it during the war. Nevertheless it is also recognized that the resources of Japan are not presently sufficient, if it is to maintain a viable economy, to make complete reparation for all such damage and suffering and at the same time meet its other obligations.

Therefore,

1. Japan will promptly enter into negotiations with Allied Powers so desiring, whose present territories were occupied by Japanese forces and damaged by Japan, with a view to assisting to compensate those countries for the cost of repairing the damage done, by making available the services of the Japanese people in production, salvaging and other work for the Allied Powers in question. Such arrangements shall avoid the imposition of additional liabilities on other Allied Powers, and, where the manufacturing of raw materials is called for, they shall be supplied by the Allied Powers in question, so as not to throw any foreign exchange burden upon Japan.
2. (I) Subject to the provisions of subparagraph (II) below, each of the Allied Powers shall have the right to seize, retain, liquidate or otherwise dispose of all property, rights and interests of
 - (a) Japan and Japanese nationals,
 - (b) persons acting for or on behalf of Japan or Japanese nationals, and
 - (c) entities owned or controlled by Japan or Japanese nationals,

which on the first coming into force of the present Treaty were subject to its jurisdiction. The property, rights and interests specified in this subparagraph shall include those now blocked, vested or in the possession or under the control of enemy property authorities of Allied Powers, which belong to, or were held or managed on behalf of, any of the persons or entities mentioned in (a), (b) or (c) above at the time such assets came under the controls of such authorities.

(II) The following shall be excepted from the right specified in subparagraph (I) above:

- (i) property of Japanese natural persons who during the war resided with the permission of the Government concerned in the territory of one of the Allied Powers, other than territory occupied by Japan, except property subjected to restrictions during the war and not released from such restrictions as of the date of the first coming into force of the present Treaty;
 - (ii) all real property, furniture and fixtures owned by the Government of Japan and used for diplomatic or consular purposes, and all personal furniture and furnishings and other private property not of an investment nature which was normally necessary for the carrying out of diplomatic and consular functions, owned by Japanese diplomatic and consular personnel;
 - (iii) property belonging to religious bodies or private charitable institutions and used exclusively for religious or charitable purposes;
 - (iv) property, rights and interests which have come within its jurisdiction in consequence of the resumption of trade and financial relations subsequent to 2 September 1945, between the country concerned and Japan, except such as have resulted from transactions contrary to the laws of the Allied Power concerned;
 - (v) obligations of Japan or Japanese nationals, any right, title or interest in tangible property located in Japan, interests in enterprises organized under the laws of Japan, or any paper evidence thereof; provided that this exception shall only apply to obligations of Japan and its nationals expressed in Japanese currency.
- (III) Property referred to in exceptions (i) through (v) above shall be returned subject to reasonable expenses for its preservation and administration. If any such property has been liquidated the proceeds shall be returned instead.
- (IV) The right to seize, retain, liquidate or otherwise dispose of property as provided in subparagraph (I) above shall be exercised in accordance with the laws of the Allied Power concerned, and the owner shall have only such rights as may be given him by those laws.
- (V) The Allied Powers agree to deal with Japanese trademarks and literary and artistic property rights on a basis as favorable to Japan as circumstances ruling in each country will permit.
- (b) Except as otherwise provided in the present Treaty, the Allied Powers waive all reparations claims of the Allied Powers, other claims of the Allied Powers and their nationals arising out of any actions taken by Japan and its nationals in the course of the prosecution of the war, and claims of the Allied Powers for direct military costs of occupation.

Article 15

- (a) Upon application made within nine months of the coming into force of the present Treaty between Japan and the Allied Power concerned, Japan will, within six months of the date of such application, return the property, tangible and intangible, and all rights or interests of any kind in Japan of each Allied Power and its nationals which was within Japan at any time between 7 December 1941 and 2 September 1945, unless the owner has freely disposed thereof without duress or fraud. Such property shall be returned free of all encumbrances and charges to which it may have become subject because of the war, and without any charges for its return. Property whose return is not applied for by or on behalf of the owner or by his Government within the prescribed period may be disposed of by the Japanese Government as it may determine. In cases where such property was within Japan on 7 December 1941, and cannot be returned or has suffered injury or damage as a result of the war, compensation will be made on terms not less favorable than the terms provided in the draft Allied Powers Property Compensation Law approved by the Japanese Cabinet on 13 July 1951.
- (b) With respect to industrial property rights impaired during the war, Japan will continue to accord to the Allied Powers and their nationals benefits no less than those heretofore accorded by Cabinet Orders No. 309 effective 1 September 1949, No. 12 effective 28 January 1950, and No. 9 effective 1 February 1950, all as now amended, provided such nationals have applied for such benefits within the time limits prescribed therein.
- (c) (i) Japan acknowledges that the literary and artistic property rights which existed in Japan on 6 December 1941, in respect to the published and unpublished works of the Allied Powers and their nationals have continued in force since that date, and recognizes those rights which have arisen, or but for the war would have arisen, in Japan since that date, by the operation of any conventions and agreements to which Japan was a party on that date, irrespective of whether or not such conventions or agreements were abrogated or suspended upon or since the outbreak of war by the domestic law of Japan or of the Allied Power concerned.
- (ii) Without the need for application by the proprietor of the right and without the payment of any fee or compliance with any other formality, the period from 7 December 1941 until the coming into force of the

present Treaty between Japan and the Allied Power concerned shall be excluded from the running of the normal term of such rights; and such period, with an additional period of six months, shall be excluded from the time within which a literary work must be translated into Japanese in order to obtain translating rights in Japan.

Article 16

As an expression of its desire to indemnify those members of the armed forces of the Allied Powers who suffered undue hardships while prisoners of war of Japan, Japan will transfer its assets and those of its nationals in countries which were neutral during the war, or which were at war with any of the Allied Powers, or, at its option, the equivalent of such assets, to the International Committee of the Red Cross which shall liquidate such assets and distribute the resultant fund to appropriate national agencies, for the benefit of former prisoners of war and their families on such basis as it may determine to be equitable. The categories of assets described in Article 14(a)2(II)(ii) through (v) of the present Treaty shall be excepted from transfer, as well as assets of Japanese natural persons not residents of Japan on the first coming into force of the Treaty. It is equally understood that the transfer provision of this Article has no application to the 19,770 shares in the Bank for International Settlements presently owned by Japanese financial institutions.

Article 17

(a) Upon the request of any of the Allied Powers, the Japanese Government shall review and revise in conformity with international law any decision or order of the Japanese Prize Courts in cases involving ownership rights of nationals of that Allied Power and shall supply copies of all documents comprising the records of these cases, including the decisions taken and orders issued. In any case in which such review or revision shows that restoration is due, the provisions of Article 15 shall apply to the property concerned.

(b) The Japanese Government shall take the necessary measures to enable nationals of any of the Allied Powers at any time within one year from the coming into force of the present Treaty between Japan and the Allied Power concerned to submit to the appropriate Japanese authorities for review any judgment given by a Japanese court between 7 December 1941 and such coming into force, in any proceedings in which any such national was unable to make adequate presentation of his case either as plaintiff or defendant. The Japanese Government shall provide that, where the national has suffered injury by reason of any such judgment, he shall be restored in the position in which he was before the judgment was given or shall be afforded such relief as may be just and equitable in the circumstances.

Article 18

(a) It is recognized that the intervention of the state of war has not affected the obligation to pay pecuniary debts arising out of obligations and contracts (including those in respect of bonds) which existed and rights which were acquired before the existence of a state of war, and which are due by the Government or nationals of Japan to the Government or nationals of one of the Allied Powers, or are due by the Government or nationals of one of the Allied Powers to the Government or nationals of Japan. The intervention of a state of war shall equally not be regarded as affecting the obligation to consider on their merits claims for loss or damage to property or for personal injury or death which arose before the existence of a state of war, and which may be presented or re-presented by the Government of one of the Allied Powers to the Government of Japan, or by the Government of Japan to any of the Governments of the Allied Powers. The provisions of this paragraph are without prejudice to the rights conferred by Article 14.

(b) Japan affirms its liability for the prewar external debt of the Japanese State and for debts of corporate bodies subsequently declared to be liabilities of the Japanese State, and expresses its intention to enter into negotiations at an early date with its creditors with respect to the resumption of payments on those debts; to encourage negotiations in respect to other prewar claims and obligations; and to facilitate the transfer of sums accordingly.

Article 19

(a) Japan waives all claims of Japan and its nationals against the Allied Powers and their nationals arising out of the war or out of actions taken because of the existence of a state of war, and waives all claims arising from the presence, operations or actions of forces or authorities of any of the Allied Powers in Japanese territory prior to the coming into force of the present Treaty.

(b) The foregoing waiver includes any claims arising out of actions taken by any of the Allied Powers with respect to Japanese ships between 1 September 1939 and the coming into force of the present Treaty, as well as any claims and debts arising in respect to Japanese prisoners of war and civilian internees in the hands of the Allied Powers, but does not include Japanese claims specifically recognized in the laws of any Allied Power enacted since 2 September 1945.

(c) Subject to reciprocal renunciation, the Japanese Government also renounces all claims (including debts) against Germany and German nationals on behalf of the Japanese Government and Japanese nationals, including intergovernmental claims and claims for loss or damage sustained during the war, but excepting (a) claims in respect of contracts entered into and rights acquired before 1 September 1939, and (b) claims arising out of trade and financial relations between Japan and Germany after 2 September 1945. Such renunciation shall not prejudice actions taken in accordance with Articles 16 and 20 of the present Treaty.

(d) Japan recognizes the validity of all acts and omissions done during the period of occupation under or in consequence of directives of the occupation authorities or authorized by Japanese law at that time, and will take no action subjecting Allied nationals to civil or criminal liability arising out of such acts or omissions.

Article 20

Japan will take all necessary measures to ensure such disposition of German assets in Japan as has been or may be determined by those powers entitled under the Protocol of the proceedings of the Berlin Conference of 1945 to dispose of those assets, and pending the final disposition of such assets will be responsible for the conservation and administration thereof.

Article 21

Notwithstanding the provisions of Article 25 of the present Treaty, China shall be entitled to the benefits of Articles 10 and 14(a)2; and Korea to the benefits of Articles 2, 4, 9 and 12 of the present Treaty.

CHAPTER VI———SETTLEMENT OF DISPUTES

Article 22

If in the opinion of any Party to the present Treaty there has arisen a dispute concerning the interpretation or execution of the Treaty, which is not settled by reference to a special claims tribunal or by other agreed means, the dispute shall, at the request of any party thereto, be referred for decision to the International Court of Justice. Japan and those Allied Powers which are not already parties to the Statute of the International Court of Justice will deposit with the Registrar of the Court, at the time of their respective ratifications of the present Treaty, and in conformity with the resolution of the United Nations Security Council, dated 15 October 1946, a general declaration accepting the jurisdiction, without special agreement, of the Court generally in respect to all disputes of the character referred to in this Article.

CHAPTER VII———FINAL CLAUSES

Article 23

(a) The present Treaty shall be ratified by the States which sign it, including Japan, and will come into force for all the States which have then ratified it, when instruments of ratification have been deposited by Japan and by a majority, including the United States of America as the principal occupying Power, of the following States, namely Australia, Canada, Ceylon, France, Indonesia, the Kingdom of the Netherlands, New Zealand, Pakistan, the Republic of the Philippines, the United Kingdom of Great Britain and Northern Ireland, and the United States of America. The present Treaty shall come into force of each State which subsequently ratifies it, on the date of the deposit of its instrument of ratification.

(b) If the Treaty has not come into force within nine months after the date of the deposit of Japan's ratification, any State which has ratified it may bring the Treaty into force between itself and Japan by a notification to that effect given to the Governments of Japan and the United States of America not later than three years after the date of deposit of Japan's ratification.

Article 24

All instruments of ratification shall be deposited with the Government of the United States of America which will notify all the signatory States of each such deposit, of the date of the coming into force of the Treaty under paragraph (a) of Article 23, and of any notifications made under paragraph (b) of Article 23.

Article 25

For the purposes of the present Treaty the Allied Powers shall be the States at war with Japan, or any State which previously formed a part of the territory of a State named in Article 23, provided that in each case the State concerned has signed and ratified the Treaty. Subject to the provisions of Article 21, the present Treaty shall not confer any rights, titles or benefits on any State which is not an Allied Power as herein defined; nor shall any right, title or interest of Japan be deemed to be diminished or prejudiced by any provision of the Treaty in favour of a State which is not an Allied Power as so defined.

Article 26

Japan will be prepared to conclude with any State which signed or adhered to the United Nations Declaration of 1 January 1942, and which is at war with Japan, or with any State which previously formed a part of the territory of a State named in Article 23, which is not a signatory of the present Treaty, a bilateral Treaty of Peace on the same or substantially the same terms as are provided for in the present Treaty, but this obligation on the part of Japan will expire three years after the first coming into force of the present Treaty. Should Japan make a peace settlement or war claims settlement with any State granting that State greater advantages than those provided by the present Treaty, those same advantages shall be extended to the parties to the present Treaty.

Article 27

The present Treaty shall be deposited in the archives of the Government of the United States of America which shall furnish each signatory State with a certified copy thereof.

IN FAITH WHEREOF the undersigned Plenipotentiaries have signed the present Treaty.

DONE at the city of San Francisco this eighth day of September 1951, in the English, French, and Spanish languages, all being equally authentic, and in the Japanese language.

For Argentina: Hipólito J. PAZ

For Australia: Percy C. SPENDER

For Belgium: Paul VAN ZEELAND SILVERCRUYS

For Bolivia: Luis GUACHALLA

For Brazil: Carlos MARTINS, A. DE MELLO-FRANCO

For Cambodia: PHLENG

For Canada: Lester B. PEARSON, R.W. MAYHEW

For Ceylon: J.R. JAYEWARDENE, G.C.S. COREA, R.G. SENANAYAKE

For Chile: F. NIETO DEL RÍO

For Colombia: Cipriano RESTREPO JARAMILLO, Sebastián OSPINA

For Costa Rica: J. Rafael OREAMUNO, V. VARGAS, Luis DOBLES SÁNCHEZ

For Cuba: O. GANS, L. MACHADO, Joaquín MEYER

For the Dominican Republic: V. ORDÓÑEZ, Luis F. THOMEN

For Ecuador: A. QUEVEDO, R.G. VALENZUELA

For Egypt: Kamil A. RAHIM

For El Salvador: Héctor DAVID CASTRO, Luis RIVAS PALACIOS

For Ethiopia: Men YAYEJJIRAD

For France: SCHUMANN, H. BONNET, Paul-Émile NAGGIAR

For Greece: A.G. POLITIS

For Guatemala: E. CASTILLO A., A.M. ORELLANA, J. MENDOZA

For Haiti: Jacques N. LÉGER, Gust. LARAQUE

For Honduras: J.E. VALENZUELA, Roberto GÁLVEZ B., Raúl ALVARADO T.

For Indonesia: Ahmad SUBARDJO

For Iran: A.G. ARDALAN
 For Iraq: A.I. BAKR
 For Laos: SAVANG
 For Lebanon: Charles MALIK
 For Liberia: Gabriel L. DENNIS, James ANDERSON, Raymond HORACE, J. Rudolf GRIMES
 For the Grand Duchy of Luxembourg: Hugues LE GALLAIS
 For Mexico: Rafael DE LA COLINA, Gustavo DÍAZ ORDAZ, A.P. GASGA
 For the Netherlands: D.U. STIKKER, J.H. VAN ROIJEN
 For New Zealand: C. BERENDSEN
 For Nicaragua: G. SEVILLA SACASA, Gustavo MANZANARES
 For Norway: Wilhelm Munthe MORGENSTERNE
 For Pakistan: ZAFRULLAH KHAN
 For Panama: Ignacio MOLINO, José A. REMON, Alfredo ALEMÁN, J. CORDOVEZ
 For Peru: Luis Oscar BOETTNER
 For the Republic of the Philippines: Carlos P. RÓMULO, J.M. ELIZALDE, Vicente FRANCISCO, Diosdado MACAPAGAL, Emiliano T. TIRONA, V.G. SINCO
 For Saudi Arabia: Asad AL-FAQIH
 For Syria: F. EL-KHOURI
 For Turkey: Feridun C. ERKIN
 For the Union of South Africa: G.P. JOOSTE
 For the United Kingdom of Great Britain and Northern Ireland: Herbert MORRISON, Kenneth YOUNGER, Oliver FRANKS
 For the United States of America: Dean ACHESON, John Foster DULLES, Alexander WILEY, John J. SPARKMAN
 For Uruguay: José A. MORA
 For Venezuela: Antonio M. ARAUJO, R. GALLEGOS M.
 For Viet-Nam: TRAN Van Huu 陳文友, T. VINH, D. THANH, BUU KINH
 For Japan: Shigeru YOSHIDA 吉田茂, Hayato IKEDA 池田勇人, Gizo TOMABECHI 苦米地義三, Niro HOSHIJIMA 星島二郎, Muneyoshi TOKUGAWA 徳川宗敬, Hisato ICHIMADA 一万田尚登

■ Editor's note =====

Neither the ROC nor the PRC were invited to the San Francisco Peace Conference which took place Sept. 4–8, 1951, and neither were parties to the San Francisco Peace Treaty (SFPT). The ROC concluded a separate peace treaty with Japan in 1952 (see below). Of the 51 nations that had sent delegates to the conference, three (Czechoslovakia, Poland and the Soviet Union) did not sign the SFPT, India and Burma were not present at the conference at all.

Below see the translations for the term “San Francisco Peace Treaty” in Chinese and for the term “Treaty of Peace with Japan” in Japanese.

Chinese: <i>Jijinsban heyue</i> 舊金山和約	Japanese: <i>Nippon kokutono heiva jōyaku</i> 日本国との平和条約
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Treaty of Peace between the ROC and Japan

Signed at Taipei on April 28, 1952

Entered into force on August 5, 1952, by the exchange of the instruments of ratification at Taipei

TREATY OF PEACE

The Republic of China and Japan,

Considering their mutual desire for good neighbourliness in view of their historical and cultural ties and geographical proximity; Realising the importance of their close cooperation to the promotion of their common welfare and to the maintenance of international peace and security; Recognising the need for a settlement of problems that have arisen as a result of the existence of a state of war between them; Have resolved to conclude a Treaty of Peace and have accordingly appointed as their Plenipotentiaries,

His Excellency the President of the Republic of China: Mr. YEH KUNG-CHAO;

The Government of Japan: Mr. ISAO KAWADA

Who, having communicated to each other their full powers found to be in good and due form, have agreed upon the following Articles:—

Article 1

The state of war between the Republic of China and Japan is terminated as from the date on which the present Treaty enters into force.

Article 2

It is recognised that under Article 2 of the Treaty of Peace which Japan signed at the city of San Francisco on 8 September 1951 (hereinafter referred to as the San Francisco Treaty), Japan has renounced all right, title, and claim to Taiwan (Formosa) and Penghu (the Pescadores) as well as the Spratley Islands and the Paracel Islands.

Article 3

The disposition of property of Japan and its nationals in Taiwan (Formosa) and Penghu (the Pescadores), and their claims, including debts, against the authorities of the Republic of China in Taiwan (Formosa) and Penghu (the Pescadores) and the residents thereof, and the disposition in Japan of property of such authorities and residents and their claims, including debts, against Japan and its nationals, shall be the subject of special arrangements between the Government of the Republic of China and the Government of Japan. The terms nationals and residents include juridical persons.

Article 4

It is recognised that all treaties, conventions, and agreements concluded before 9 December 1941 between Japan and China have become null and void as a consequence of the war.

Article 5

It is recognised that under the provisions of Article 10 of the San Francisco Treaty, Japan has renounced all special rights and its interests in China, including all benefits and privileges resulting from the provisions of the final Protocol signed at Peking on 7 September 1901, and all annexes, notes, and documents supplementary thereto, and has agreed to the abrogation in respect to Japan of the said protocol, annexes, notes, and documents.

Article 6

(a) The Republic of China and Japan will be guided by the principles of Article 2 of the Charter of the United Nations in their mutual relations.

(b) The Republic of China and Japan will cooperate in accordance with the principles of the Charter of the United Nations and, in particular, will promote their common welfare through friendly cooperation in the economic field.

Article 7

The Republic of China and Japan will endeavour to conclude, as soon as possible, a treaty or agreement to place their trading, maritime, and other commercial relations, on a stable and friendly basis.

Article 8

The Republic of China and Japan will endeavour to conclude, as soon as possible, an agreement relating to civil air transport.

Article 9

The Republic of China and Japan will endeavour to conclude, as soon as possible, an agreement providing for the regulation or limitation of fishing and the conservation and development of fisheries on the high seas.

Article 10

For the purposes of the present Treaty, nationals of the Republic of China shall be deemed to include all the inhabitants and former inhabitants of Taiwan (Formosa) and Penghu (the Pescadores) and their descendants who are of the Chinese nationality in accordance with the laws and regulations which have been or may hereafter be enforced

by the Republic of China in Taiwan (Formosa) and Penghu (the Pescadores); and juridical persons of the Republic of China shall be deemed to include all those registered under the laws and regulations which have been or may hereafter be enforced by the Republic of China in Taiwan (Formosa) and Penghu (the Pescadores).

Article 11

Unless otherwise provided for in the present Treaty and the documents supplementary thereto, any problem arising between the Republic of China and Japan as a result of the existence of a state of war shall be settled in accordance with the relevant provisions of the San Francisco Treaty.

Article 12

Any dispute that may arise out of the interpretation or application of the present Treaty shall be settled by negotiation or other pacific means.

Article 13

The present Treaty shall be ratified and the instruments of ratification shall be exchanged at Taipei as soon as possible. The present Treaty shall enter into force as from the date on which such instruments of ratification are exchanged.

Article 14

The present Treaty shall be in the Chinese, Japanese, and English languages. In case of any divergence of interpretation, the English text shall prevail.

In witness whereof the respective Plenipotentiaries have signed the present Treaty and have affixed thereto their seals.

Done in duplicate at Taipei, this Twenty Eighth day of the Fourth month of the Forty First year of the REPUBLIC OF CHINA, corresponding to the Twenty Eighth day of the Fourth month of the Twenty Seventh year of SHOWA of Japan and to the Twenty Eighth day of April in the year One Thousand Nine Hundred and Fifty Two.

YEH KUNG-CHAO, [L.S.] Minister of Foreign Affairs and Plenipotentiary of the Republic of China

ISAO KAWADA, [L.S.] Minister of Foreign Affairs and Plenipotentiary of Japan

中華民國與日本國間和平條約

【中華民國與日本國間和平條約：

民國四十一年四月二十八日簽訂，民國四十一年八月五日互換批准書，民國四十一年八月五日生效】

中華民國與日本國

鑒於兩國由於其歷史文化關係及領土鄰近而產生之相互睦鄰願望；
了解兩國之密切合作對於增進其共同福利及維持世界和平與安全，均屬重要；
均認由於兩國間戰爭狀態之存在而引起之各項問題，亟待解決；
爰經決定締結和平條約，並為此各派全權代表如左：
中華民國總統閣下：葉公超先生；日本國政府：河田烈先生；
各該全權代表經將其所奉全權證書提出互相校閱，認為均屬妥善，爰議定條款如左：

- 第一條 中華民國與日本國間之戰爭狀態，自本約發生效力之日起，即告終止。
- 第二條 茲承認依照公曆一千九百五十一年九月八日在美利堅合眾國金山市簽訂之對日和平條約（以下簡稱金山和約）第二條，日本國業已放棄對於臺灣及澎湖群島以及南沙群島及西沙群島之一切權利、權利名義與要求。
- 第三條 關於日本國及國民在臺灣及澎湖之財產及其對於在臺灣及澎湖之中華民國當局及居民所作要求（包括債權在內）之處置，及該中華民國當局及居民在日本國之財產及其對於日本國及日本國國民所作要求（包括債權在內）之處置，應由中華民國政府與日本國政府間另商特別處理辦法。本約任何條款所用「國民」及「居民」等名詞，均包括法人在內。
- 第四條 茲承認中國與日本國間在中華民國三十年即公曆一千九百四十一年十二月九日以前所締結之一切條約、專約及協定，均因戰爭結果而歸無效。

- 第五條 茲承認依照金山和約第十條之規定，日本國業已放棄在中國之一切特殊權利及利益。包括由於中華民國紀元前十一年即公曆一千九百零一年九月七日在北京簽訂之最後議定書與一切附件及補充之各換文暨文件所產生之一切利益與特權；並已同意就關於日本國方面廢除該議定書、附件、換文及文件。
- 第六條 (甲) 中華民國與日本國在其相互之關係上，願各遵聯合國憲章第二條之各項原則 (乙) 中華民國與日本國願依聯合國憲章之原則彼此合作，並特願經由經濟方面之友好合作，促進兩國之共同福利。
- 第七條 中華民國與日本國願儘速商訂一項條約或協定，藉以將兩國貿易、航業及其他商務關係，置於穩定與友好之基礎上。
- 第八條 中華民國與日本國願儘速商訂一項關於民用航空運輸之協定。
- 第九條 中華民國與日本國願儘速締結一項為規範或限制捕魚、及保存暨開發公海漁業之協定。
- 第十條 就本約而言，中華民國國民應認為包括依照中華民國在臺灣及澎湖所已施行或將來可能施行之法律規章而具有中國國籍之一切臺灣及澎湖居民及前屬臺灣及澎湖之居民及其後裔；中華民國法人應認為包括依照中華民國在臺灣及澎湖所已施行或將來可能施行之法律規章所登記之一切法人。
- 第十一條 除本約及其補充文件另有規定外，凡在中華民國與日本國間因戰爭狀態存在之結果而引起之任何問題，均應依照金山和約之有關規定予以解決。
- 第十二條 凡因本約之解釋或適用可能發生之任何爭執，應以磋商或其他和平方式解決之。
- 第十三條 本約應予批准，批准文件應儘速在臺北互換。本約應自批准文件互換之日起發生效力。
- 第十四條 本約應分繕中文、日文及英文。遇有解釋不同，應以英文本為準。

為此，雙方全權代表各於本約簽字蓋印，以昭信守。

本約共繕二份，於中華民國四十一年四月二十八日即日本國昭和二十七年四月二十八日即公曆一千九百五十二年四月二十八日訂於臺北。

中華民國代表 葉公超 (蓋印)

日本國代表 河田烈 (蓋印)

■ Editor's note =====

The Treaty of Peace between the ROC and Japan/Sino-Japanese Peace Treaty (abbrev. *Zhong Ri heping tiaoyue* 中日和平條約 or *Zhong Ri heyue* 中日和約) is commonly also known as the Treaty of Taipei (*Taipei heyue* 台北和約); in Japanese: *Nippon kokuto Chuka minkoku tonno aidano heina jōyaku* 日本国と中華民國との間の平和条約.

Sino-American Mutual Defense Treaty

Treaty signed at Washington December 2, 1954;
 Ratification advised by the Senate of the United States of America February 9, 1955;
 Ratified by the President of the United States of America February 11, 1955;
 Ratified by the Republic of China February 15, 1955;
 Ratifications exchanged at Taipei March 3, 1955;
 Proclaimed by the President of the United States of America April 1, 1955;
 Entered into force March 3, 1955.
 And exchange of notes
 Signed at Washington December 10, 1954

By THE PRESIDENT OF THE UNITED STATES OF AMERICA
 A PROCLAMATION

WHEREAS the Mutual Defense Treaty between the United States of America and the Republic of China was signed at Washington on December 2, 1954 by their respective plenipotentiaries, the original of which Treaty in the English and Chinese languages is word for word as follows:

MUTUAL DEFENSE TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF CHINA

The Parties to this Treaty,

Reaffirming their faith in the purposes and principles of the Charter of the United Nations and their desire to live in peace with all peoples and all Governments, and desiring to strengthen the fabric of peace in the West Pacific Area,

Recalling with mutual pride the relationship which brought their two peoples together in a common bond of sympathy and mutual ideals to fight side by side against imperialist aggression during the last war,

Desiring to declare publicly and formally their sense of unity and their common determination to defend themselves against external armed attack, so that no potential aggressor could be under the illusion that either of them stands alone in the West Pacific Area, and

Desiring further to strengthen their present efforts for collective defense for the preservation of peace and security pending the development of a more comprehensive system of regional security in the West Pacific Area,

Have agreed as follows:

Article 1

The Parties undertake, as set forth in the Charter of the United Nations, to settle any international dispute in which they may be involved by peaceful means in such a manner that international peace, security and justice are not endangered and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations.

Article 2

In order more effectively to achieve the objective of this Treaty, the Parties separately and jointly by self-help and mutual aid will maintain and develop their individual and collective capacity to resist armed attack and communist subversive activities directed from without against their territorial integrity and political stability.

Article 3

The Parties undertake to strengthen their free institutions and to cooperate with each other in the development of economic progress and social well-being and to further their individual and collective efforts toward these ends.

Article 4

The Parties, through their Foreign Ministers or their deputies, will consult together from time to time regarding the implementation of this Treaty.

Article 5

Each Party recognizes that an armed attack in the West Pacific Area directed against the territories of either of the Parties would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional processes.

Any such armed attack and all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

Article 6

For the purposes of Articles II and V, the terms "territorial" and "territories" shall mean in respect of the Republic of China, Taiwan and the Pescadores; and in respect of the United States of America, the island territories in the West Pacific under its jurisdiction. The provisions of Articles II and V will be applicable to such other territories as may be determined by mutual agreement.

Article 7

The Government of the Republic of China grants, and the Government of the United States of America accepts, the right to dispose such United States land, air and sea forces in and about Taiwan and the Pescadores as may be required for their defense, as determined by mutual agreement.

Article 8

This Treaty does not affect and shall not be interpreted as affecting in any way the rights and obligations of the Parties under the Charter of the United Nations or the responsibility of the United Nations for the maintenance of international peace and security.

Article 9

This Treaty shall be ratified by the United States of America and the Republic of China in accordance with their respective constitutional processes and will come into force when instruments of ratification thereof have been exchanged by them at Taipei.

Article 10

This Treaty shall remain in force indefinitely. Either Party may terminate it one year after notice has been given to the other Party.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have signed this Treaty.

DONE in duplicate, in the English and Chinese languages, at Washington on this second day of December of the Year One Thousand Nine Hundred and Fifty-four, corresponding to the second day of the twelfth month of the Forty-third year of the Republic of China.

FOR THE UNITED STATES OF AMERICA: John Foster Dulles

FOR THE REPUBLIC OF CHINA: George K. C. Yeh

美利堅合眾國、中華民國共同防禦條約

本條約締約國

茲重申其對聯合國憲章之宗旨與原則之信心，及其與所有人民及政府和平相處之願望，並欲增強西太平洋區域之和平結構；

以光榮之同感，追溯上次大戰期間，兩國人民為對抗帝國主義侵略，而在相互同情與共同理想之結合下，團結一致併肩作戰之關係；

願公開正式宣告其團結之精誠，及為其自衛而抵禦外來武裝攻擊之共同決心，俾使任何潛在之侵略者不存有任一締約國在西太平洋區域立於孤立地位之妄想；並

願加強兩國為維護和平與安全而建立集體防禦之現有努力，以待西太平洋區域安全制度之發展；

茲議訂下列各條款。

- 第一條 本條約締約國承允依照聯合國憲章之規定，以不危及國際和平安全與正義之和平方法，解決可能牽涉兩國之任何國際爭議，並在其國際關係中，不以任何與聯合國宗旨相悖之方式，作武力之威脅或使用武力。
- 第二條 為期更有效達成本條約之目的起見，締約國將個別並聯合以自助及互助之方式，維持並發展其個別及集體之能力，以抵抗武裝攻擊，及由國外指揮之危害其領土完整與政治安定之共產顛覆活動。
- 第三條 締約國承允加強其自由制度，彼此合作以發展其經濟進步與社會福利，並為達到此等目的，而增加其個別與集體之努力。
- 第四條 締約國將經由其外交部部長或其代表，就本條約之實施隨時會商。
- 第五條 每一締約國承認對在西太平洋區域內任一締約國領土之武裝攻擊，即將危及其本身之和平與安全。茲並宣告將依其憲法程序採取行動，以對付此共同危險。任何此項武裝攻擊及因而採取之一切措施，應立即報告聯合國安全理事會。此等措施應於安全理事會採取恢復並維持國際和平與安全之必要措施時予以終止。
- 第六條 為適用於第二條及第五條之目的，所有『領土』等辭，就中華民國而言，應指台灣與澎湖；就美利堅合眾國而言，應指西太平洋區域內在其管轄下之各島嶼領土。第二條及第五條之規定，並將適用於共同協議所決定之其他領土。
- 第七條 中華民國政府給予，美利堅合眾國政府接受，依共同協議之決定，在台灣澎湖及其附近，為其防衛所需而部署美國陸海空軍之權利。

- 第八條 本條約並不影響，且不應被解釋為影響，締約國在聯合國憲章下之權利及義務，或聯合國為維持國際和平與安全所負之責任。
- 第九條 本條約應由美利堅合眾國與中華民國各依其憲法程序以批准，並將於在台北互換批准書之日起發生效力。
- 第十條 本條約應無限期有效。任一締約國得於廢約之通知送達另一締約國一年後，予以終止。

為此，下開各全權代表爰於本條約簽字，以昭信守。

本條約用英文及中文各繕二份。

公曆一千九百五十四年十二月二日

中華民國四十三年十二月二日訂於華盛頓。

美利堅合眾國代表：約翰·福斯特·杜勒斯【John Foster Dulles】

中華民國代表：葉公超

The US Congress Formosa Resolution

[Approved by House vote 409-3 on January 25, 1955 and by Senate vote 85-3 on January 28, 1955]

U.S. Congressional Authorization for the President to Employ the Armed Forces of the United States to Protect Formosa, the Pescadores, and Related Positions and Territories of That Area

Whereas the primary purpose of the United States, in its relations with all other nations, is to develop and sustain a just and enduring peace for all; and Whereas certain territories in the West Pacific under the jurisdiction of the Republic of China are now under armed attack, and threats and declarations have been and are being made by the Chinese Communists that such armed attack is in aid of and in preparation for armed attack on Formosa and the Pescadores,

Whereas such armed attack if continued would gravely endanger the peace and security of the West Pacific Area and particularly of Formosa and the Pescadores; and

Whereas the secure possession by friendly governments of the Western Pacific Island chain, of which Formosa is a part, is essential to the vital interests of the United States and all friendly nations in or bordering upon the Pacific Ocean; and

Whereas the President of the United States on January 6, 1955, submitted to the Senate for its advice and consent to ratification a Mutual Defense Treaty between the United States of America and the Republic of China, which recognizes that an armed attack in the West Pacific Area directed against territories, therein described, in the region of Formosa and the Pescadores, would be dangerous to the peace and safety of the parties to the treaty:

Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

That the President of the United States be and he hereby is authorized to employ the Armed Forces of the United States as he deems necessary for the specific purpose of securing and protecting Formosa and the Pescadores against armed attack, this authority to include the securing and protection of such related positions and territories of that area now in friendly hands and the taking of such other measures as he judges to be required or appropriate in assuring the defense of Formosa and the Pescadores.

This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, and shall so report to the Congress.

■ Editor's note =====

In Chinese, the Formosa Resolution by the US Congress (*Meiguo guohui* 美國國會) is called *Taiwan jueyi'an* 台灣決議案 or *Fuermosha jueyi'an* 福爾摩沙決議案. US President Dwight D. Eisenhower signed it into law on Jan. 29, 1955. It was repealed by the US Congress on Oct. 26, 1974.

Legal Problems Regarding Formosa and the Offshore Islands

By Ely Maurer

Assistant Legal Adviser for Far Eastern Affairs¹

Since August 23, when the Chinese Communists began their massive bombardment of Quemoy, no item has received as much coverage in the world press as the problems of Formosa and the offshore islands. We are now in a period of relative calm. However, in the 4 months that have elapsed since August 23 considerable discussion and world anxiety have been generated by the matter. In this discussion there have been intertwined elements of policy and of law. I do not intend here to go into the policy issues. I appreciate the opportunity you have afforded me to take up the legal problems. With respect to the questions of law these involve a blend of national and international aspects.

Before going into the legal problems it is desirable to review briefly the geographical and historical background of Formosa and the offshore islands.

Background

Formosa, or Taiwan, is an island about 100 miles from the mainland of China. It has an area equal to that of Maryland and a population of about 10 million people, comprising 8.5 million persons of Chinese descent, 1.5 million mainland Chinese, and 100,000 aborigines. Close to and westward of Formosa are the Pescadores Islands, or Penghus. I shall use the term "Formosa" hereafter as also covering these islands.

Close to the mainland of China, in the vicinity of the city of Amoy and about 5 miles away, is the Quemoy group of islands consisting mainly of Big Quemoy, Little Quemoy, and the two tiny Tan Islands.

About 120 miles up the mainland coast and in the vicinity of Foochow and about 10 miles off the coast is the Matsu group of islands.

Both these groups are in the control of the Republic of China. I shall hereafter speak of them as the offshore islands. These islands have been for a very long time under Chinese sovereignty.

Since the middle of the 17th century and up to 1895 Formosa was a part of the Chinese Empire. In 1895 under the Treaty of Shimonoseki China ceded Formosa to Japan. In the Cairo conference in November 1943 the United States, United Kingdom, and China declared it was their "purpose" that Manchuria, Formosa, and the Pescadores "shall be restored to the Republic of China." Thereafter in August 1945 in the Potsdam conference the United States, United Kingdom, and China declared that "the terms of the Cairo Declaration shall be carried out." This Potsdam declaration was subsequently adhered to by the U.S.S.R. On September 2, 1945, the Japanese Government, in the instrument of surrender, accepted the provisions of the declaration. The Supreme Allied Commander for the Allied Powers then issued Directive No. 1, under which the Japanese Imperial Headquarters issued General Order No. 1 requiring Japanese commanders in Formosa to surrender to Generalissimo Chiang Kai-shek of the Republic of China. Since September 1945 the United States and the other Allied Powers have accepted the exercise of Chinese authority over the island. In article 2 of the Japanese Peace Treaty, which entered into force April 28, 1952, Japan renounced all "right, title and claim" to Formosa. Neither this agreement nor any other agreement thereafter has purported to transfer the sovereignty of Formosa to China.

In the meantime, since the end of the war in 1945, the Chinese Communists had been engaged in open hostilities with the Republic of China. On October 1, 1949, they proclaimed the establishment of the People's Republic of China. Two days later the Soviet Union established diplomatic relations with this regime. The Chinese Communists made their first attempt to capture Quemoy in late 1949 and were repulsed with heavy losses by the Chinese Government on October 27. The Chinese Government had been transferring its offices to Taipei, Formosa, and early in December 1949 Taipei became the provisional capital of the Republic of China.

On January 5, 1950, President Truman, in a public statement regarding Formosa, declared that the United States had no predatory designs on Formosa or on any other Chinese territory, did not seek any special privileges therein, and would not pursue a course which would lead to involvement in the civil conflict in China.² However, when the Communists attacked the Republic of Korea on June 25, 1950, President Truman issued a public statement noting that the Communists had made clear their intent to use armed invasion and war for purposes of conquest and had defied the Security Council of the United Nations.³ He thereupon ordered the Seventh Fleet "to prevent any attacks

on Formosa” and as a corollary called upon the Chinese Government to cease all operations against the mainland. In addition he stated that “The determination of the future status of Formosa must await the restoration of security in the Pacific, a peace settlement with Japan, or consideration by the United Nations.”

On August 24, 1950, the Chinese Communist regime sent a telegram to the President of the United Nations Security Council calling President Truman's action “a direct armed aggression on the territory of China and a total violation of the United Nations Charter.” In a statement on the same day the State Department said the United States would welcome the United Nations consideration of the problem, and on September 21 we formally asked that it be put on the agenda of the General Assembly. The United States made this request at a time when there seemed to be a reasonable prospect that peace and security could be restored in Korea. When these hopes were destroyed by Chinese Communist intervention in Korea, the United States on November 15 asked that consideration of the Formosa question be deferred. In the meantime the Soviet Union had initiated resolutions in the General Assembly and Security Council of the United Nations condemning the United States for alleged “armed invasion” of Formosa. The General Assembly never endorsed the charges, and they were dropped. The Security Council defeated the Soviet resolution on November 30 by a vote of 9 to 1.

In July of 1954, at the time when the Geneva Accords were being negotiated to end hostilities in Indochina, the Chinese Communist regime launched a massive propaganda campaign for the “liberation of Taiwan.” On September 3 the Chinese Communists began a heavy bombardment of the island of Quemoy, and military attacks spread to coastal islands including the Tachen Islands to the north. Against this background the United States–Republic of China Mutual Defense Treaty was signed on December 2, 1954.⁴ The territorial coverage of the treaty in respect of China was limited to Formosa. The treaty was accompanied by an exchange of notes of December 10⁵ by which the United States and the Republic of China undertook not to use force from the Formosa area or the offshore islands except by joint agreement or in self-defense. It might be pointed out that these defensive arrangements merely formalized and did not in any way extend the United States undertaking for the defense of Formosa going back to June 1950.

The Peiping regime propaganda campaign was stepped up throughout December and January, and the Chinese Communists launched heavy aerial bombardment on the coastal islands and invaded and seized Ichiang Island. These actions were accompanied by broadcast declarations that the actions were preliminary to the taking of Formosa. Following these attacks President Eisenhower on January 24, 1955, requested a resolution from Congress publicly establishing the authority of the President to employ United States forces as he deemed necessary to secure and protect Formosa from armed attack. This joint resolution was passed January 29.⁶ The United States also supported in the United Nations Security Council a New Zealand proposal for the consideration of the question of hostilities in the offshore-island area. However, the Peiping regime refused the invitation of the Security Council to be present and participate in the discussion. The Chinese Communists said that the New Zealand resolution was not within the competence of the United Nations because the liberation of Formosa and other coastal islands was a matter of “sovereign right” and an internal affair.

In several statements made in 1955 the President and the Secretary of State reiterated the desire of the United States to find a peaceful solution to the tension in the Formosa area, and ambassadorial talks were opened in Geneva in 1955 with the Chinese Communists relating to this subject as well as other topics. However, these conversations proved abortive since the Chinese Communists refused to agree to a proposal which concerned renunciation of force in the Formosa area.

During the period from February 1955 up to August 23 of this year the Chinese Communist attacks on the Republic of China were relatively infrequent. Then on August 23 the Chinese Communists commenced a massive bombardment of the Quemoy Islands, once again resorting to armed force and precipitating a grave situation in the Formosan Straits. From the beginning of the attacks the United States has shown a desire for a peaceful resolution of the crisis in the Formosa Straits. When the Chinese Communists on September 6 stated a willingness to resume the suspended ambassadorial talks at Geneva, the United States welcomed the prospect. Since that time the United States has, in talks now taking place in Warsaw, been seeking to obtain a cessation of Chinese Communist attacks.

On October 5 the Chinese Communists announced a 1-week suspension of the bombardment, conditional on the discontinuance of the United States escort activities. The Department of State issued a statement welcoming the Communist move and expressing the hope it foreshadowed a permanent end to the attacks.⁷ At the end of the week the Chinese Communists extended their cease-fire for another 2 weeks. However, on October 20, justifying their action on alleged escorting activities, the Chinese Communists resumed bombardment but announced shortly thereafter that bombardment of certain areas on Quemoy would only take place on odd numbered days. Since that

time bombardment has greatly diminished.

As a result of meetings between Secretary Dulles and Chiang Kai-shek pursuant to article IV of the Mutual Defense Treaty a joint communique was issued on October 23. ⁸ In this communique it was recognized that under the present conditions the defense of the offshore islands is “closely related” to the defense of Formosa. Further, the Republic of China stated that the “principal means” of restoring freedom to its people on the mainland is the implementation of Dr. Sun Yat-sen's “three people's principles” and “not the use of force.”

This then brings us up to the present. On the basis of this background we can now go into the legal issues presented.

National Legal Problems

The legal problems concerning Formosa and the offshore islands break down into two main subdivisions: (a) the legal problems with respect to the authority of the Executive under United States law, and (b) the authority of the United States Government under international law. It may be best to consider the national aspect first.

In January 1955, in a period in which the Chinese Communists were taking menacing actions with respect to the offshore islands and Formosa and after we had signed a Mutual Defense Treaty with the Republic of China, the President sent a message to Congress urging a resolution by Congress authorizing him, if necessary, to take military action in the Formosa area. The message recited that Formosa constituted a part of the vital island chain of defenses of the United States and free nations in the Western Pacific. The President alluded to Quemoy as “one of the natural approaches to Formosa” and said that attacks upon the offshore islands have been asserted by the Chinese Communists themselves to be “a prelude to the conquest of Formosa.” The President then said:

But, unhappily, the danger of armed attack directed against that area compels us to take into account closely related localities and actions which, under current conditions, might determine the failure or success of such an attack. The authority that may be accorded by the Congress would be used only in situations which are recognizable as parts of, or definite preliminaries to, an attack against the main positions of Formosa and the Pescadores.

After serious debate Congress passed House Joint Resolution 159 (Public Law 4, 84th Congress, 1st session, chapter 4). This resolution reads in pertinent part:

... the President of the United States be and he is hereby authorized to employ the Armed Forces of the United States as he deems necessary for the specific purpose of securing and protecting Formosa and the Pescadores against armed attack, this authority to include the securing and protection of such related positions and territories of that area now in friendly hands and the taking of such other measures as he judges to be required or appropriate in assuring the defense of Formosa and the Pescadores.

In the light of the above, let us first take up the question of the authority of the President to take military action to defend Formosa. In this connection it should be recalled that under article V of the Mutual Defense Treaty between the United States and the Government of China it is provided that an armed attack on the territories of one of the parties would be dangerous to the other party's peace and security and the other party declare that it would act to meet the common danger “in accordance with its constitutional processes.” Under article VI the term “territories” in respect to the Republic of China is limited to Formosa (and the Pescadores). Thus if an armed attack took place on Formosa the question might arise as to the content of the phrase “in accordance with its constitutional processes.” It might be argued that it is only Congress which could take action under the constitutional provision giving it the power to declare war. However, as is well known, it is considered that the President has a large power to take military action in emergency situations for the defense of the United States without awaiting action by Congress. In the present situation, House Joint Resolution 159 eliminates any problem on this score since, in the words of the President's message, the resolution clearly and publicly establishes the authority of the President to take military action in the defense of Formosa as he deems necessary.

The second question concerns the authority of the President to take action to defend the offshore islands. The Mutual Defense Treaty does not cover in its territorial scope the offshore islands, and there is no commitment therein of United States action in their defense. However, House Joint Resolution 159 authorizes the President to protect “such related positions and territories of that area now in friendly hands” and to take “such other measures as he judges to be required or appropriate in assuring the defense of Formosa and the Pescadores.” What is the meaning of this clause?

It has been argued that the phrase “related positions and territories” refers only to areas that are necessary from the standpoint of military tactics for the defense of Formosa. Thus, this argument runs, the President has only the power to defend Quemoy if Quemoy in a military sense is essential to the defense of Formosa, so that if Quemoy fell the defense of Formosa would be tactically impossible. The argument continues that, since Quemoy is not essential in this sense, the President has no authority to defend it.

It is our view that the language with respect to the offshore islands, read in its natural sense and with relation to the background message of the President and the debate in Congress, permits a broader meaning. (1) The word “related” would seem logically to cover the situation where the position or territory in question is not “essential” to the defense of Formosa but one in which the loss of the position or territory would make that defense harder or more difficult. (2) More importantly, the word “related” would appear to cover the situation in which the offshore islands are part and parcel of a general plan for the seizure of Formosa or preliminary thereto. In the present situation it is evident from the innumerable statements issued by the Chinese Communists that they view their whole action with respect to the offshore islands as related in this way to the “liberation” of Formosa. (3) Further, it is improper in our view to give a too physical interpretation to the word “related.” In this connection it might be pointed out that the offshore islands constitute an extremely important psychological element in the will to resist of the defenders of Formosa. In this sense the loss of the offshore islands is quite clearly related to the defense of Formosa. (4) Fourthly, emphasis should be given to the language “such related positions” as “he judges to be required or appropriate” in assuring the defense of Formosa. Implicit in this language is that discretion is lodged in the President to determine what related positions are required or appropriate in the defense of Formosa. (5) Fifthly, it should be emphasized the President has also power to take “such other measures as he judges to be required or appropriate” in the defense of Formosa, and this is not tied down to any phrase as to “related positions.”

Considering the cumulative effect of all these points and taking into account the inherent constitutional powers of the President, it is our view that the President has an extremely broad latitude of decision with respect to taking action to defend the offshore islands. In this connection it will be recalled that in the joint communique issued on October 23 at Taipei, at the conclusion of the Dulles-Chiang discussions, it was stated that “It was recognized that under the present conditions the defense of the Quemoy, together with the Matsus, is closely related” to the defense of Formosa.

International Legal Problems

On the international front it is best to examine the problem of Formosa separately from the problem of the offshore islands.

In giving the historical background of Formosa it has been pointed out that at Cairo the Allies stated it was their purpose to restore Formosa to Chinese sovereignty and that at the end of the war the Republic of China receive the surrender of Japanese forces on Formosa. It has also been pointed out that under the Japanese Peace Treaty Japan renounced all right, title, and claim to Formosa. However, neither in that treaty nor in any other treaty has there been any definitive cession to China of Formosa. The situation is, then, one where the Allied Powers still have to come to some agreement or treaty with respect to the status of Formosa. Any action, therefore, of the Chinese Communist regime to seize Formosa constitutes an attempt to seize by force territory which does not belong to it. Such a seizure is prohibited by international law and the United Nations Charter as an attempt to settle a claim to territory by force. It would thus appear that the United States is within its legal rights in taking action to defend Formosa.

With respect to the offshore islands the situation is admittedly somewhat different. There is no question that these islands are a part of the state of China. It may be admitted further that these islands are close to the mainland of China. However, the offshore islands have been in the possession and effective control of the Government of the Republic of China since its inception, except for the period of the Japanese war. Since 1949 a status quo has come into existence vis-a-vis the Peiping regime. It is this status quo which the Chinese Communists have threatened with the menace of armed force. It is our view that we have here in fact a situation comparable to that which obtained in Korea preceding the invasion of south Korea by north Korea. In other words, the action of the Chinese Communists in taking warlike measures is an effort to change the status quo and to gain additional territory by force in violation of the prohibitions of the United Nations Charter.

It has been urged that this is essentially a civil war and therefore it is improper for the United States to participate with the Government of the Republic of China in defense of the offshore islands. It should first be pointed out that it is too narrow to look upon the conflict merely as a civil war. Even as early as the end of the war with Japan the Soviet Union, in violation of its treaty with the Chinese Nationalists, turned over large stores of equipment and in

other ways furnished material aid to the Chinese Communists. Since that time the Soviet Union has continued giving large assistance to the Chinese Communist regime. Thus much of the ammunition, artillery, and planes that are at present being used by that regime derive from Russian sources. And the Soviet Union is allied by military treaty with the Chinese regime. On the other hand the United States has vital interests in the Formosa area and is allied with the Republic of China in a Mutual Defense Treaty and has agreements to supply arms for defensive purposes. In the circumstances it seems fair to say that we are here involved in what is realistically an international dispute which the Communist regime is attempting to settle by force.

Further with respect to the argument that this is a civil war, it will be recalled that this was the same argument that was made by Vishinsky regarding the north Korean invasion of south Korea. It was an argument however which the United Nations paid no heed to but, instead, viewed the action of the north Koreans as one of aggression which came under the ban of the United Nations Charter. Secretary Dulles has summarized the situation forcefully in a speech before the United Nations General Assembly on September 18.⁹ He said:

1. The Chinese Communist regime has never during its 9 years of existence exercised authority over Taiwan, the Penghus, or the Quemoy or Matsu Islands.
2. The Chinese Communist regime is now attempting to extend its authority to these areas by the use of naked force.

The issue is thus a simple one: armed conquest.

In 1950 the United Nations met that issue squarely. By overwhelming vote it found that the attack of north Korea to “unify” Korea was armed aggression. It condemned the Chinese Communist regime as an aggressor because of its part in that armed attack.

I do not ignore the argument that today's Chinese Communist attack is a “civil war” operation. Mr. Vishinsky made a parallel argument in 1950. He told us that the war in Korea was purely a “civil war” and that outsiders who intervened were “aggressors.” The United Nations overwhelmingly rejected that contention. ...

The fact is that, when one regime attempts by force to take additional territory which has long been under the authority of another government, recognized as such by a respectable part of the world community, that is a use of force which endangers world order.

On this phase of the matter it is our view, then, that the United States would be justified from an international standpoint in cooperating with the Republic of China in the defense of the offshore islands and Formosa.

Recognition of Communist China

Related to the problems of Formosa and the offshore islands is the question of the recognition policy of the United States. The United States Government has been criticized for its failure to recognize the Chinese Communist regime, some commentators taking the view that, since the Communist regime controls the great mass of mainland China as well as its 600 million inhabitants, the United States must accord recognition. It is the view of the United States Government that international law does not require one government to accord diplomatic recognition to another government. It is our view that the matter of diplomatic recognition is one solely to be determined as the national interest dictates, and in this case on an examination of all facets of the subject the United States Government believes that it would be contrary to our national interest to accord recognition. The various considerations involved in reaching this conclusion were spelled out in press release No. 459 of August 11, 1958, issued by the State Department.¹⁰ This press release embodied the text of a memorandum sent by the Department to its missions abroad.

It is true that, in reviewing whether we should extend recognition, the United States Government, in this as well as in previous administrations, has looked to certain factors which are generally considered significant. These factors are (1) whether the government in question is in control of a certain territory, (2) whether the government reflects the will of the nation substantially declared, (3) whether the government is prepared to honor its international obligations. While the United States examines these factors, we do not view recognition as required upon a satisfactory finding with respect to these factors. Even if that were our view, there is serious question whether the Chinese Communist regime can in any way be considered to reflect the will of the nation; and there is no doubt, in view of flagrant past treaty violations and violations of the United Nations Charter and violations of international law and in view of statements made by the Chinese Communist regime about disregarding preexisting treaties, that the Chinese Communist regime is not prepared to honor its international obligations. Thus, even on this view, the Chinese Communists are not entitled to recognition.

As Secretary Dulles has pointed out, however, our failure to recognize the Chinese Communist regime has not meant that we refuse to deal with them where it is essential to our purpose and inures to our benefit. Thus we are at present carrying on conversations in Warsaw as we have carried on conversations in Geneva; we dealt with them in the Korean armistice negotiations; we dealt with them with respect to the cease-fires in Indochina; and we are prepared to deal with them whenever we believe it to be in the interest of the United States to do so.

Territorial Sea

As a collateral legal issue related to the Formosa Straits area there has arisen the question of the extent of the territorial sea. The Chinese Communist regime in a declaration dated September 4, 1958 declared their territorial sea to extend to 12 miles. In addition, their declaration indicated that they viewed the baselines from which the 12 miles were to be calculated as being points connecting basepoints on the mainland and on certain islands offshore. On the ground of this declaration they considered all the waters around the Quemoy and Matsus and areas well into the Formosa Straits as being internal or territorial waters, and they have charged the United States forces with more than 40 intrusions of such internal or territorial waters by warships and aircraft. The United States position on this matter is quite clear. The United States only recognizes the Government of the Republic of China; and as far as the United States is concerned the declaration of the Chinese Communist regime has therefore no force or validity. In addition the United States considers that international law recognizes only a 3-mile limit, that it is not possible for a country by unilateral action to take unto itself that which is the common property of all nations, and that this is, moreover, in violation of the universally accepted principle of the freedom of the high seas. The United States position finds support in the report of the United Nations International Law Commission ¹¹ wherein it is stated that “international law does not require states to recognize a breadth [of territorial sea] beyond 3 miles.”

Further, a country is not free to choose whether its territorial sea will be measured from the lowwater mark on the coast, which is the normal baseline, or whether it will use straight baselines connecting salient points or offshore islands. While article 4 of the Geneva Convention on the Territorial Sea and the Contiguous Zone ¹² adopted by the recent Geneva Conference on Law of the Sea permits the establishment of straight baselines in localities where the coastline is deeply indented and cut into or if there is a fringe of islands along the coast in its immediate vicinity, it is clear that the Chinese coast along which the straight lines described in the statement of September 4 are drawn does not conform to the geographic conditions which are set forth in article 4. There is even less legal basis for drawing straight baselines from outermost points on a group of islands and claiming waters thereby included as internal waters. Similar attempts by other countries to claim, as internal waters, large areas of high seas within groups of islands or archipelagoes have been protested by many countries. The straight baselines described in the statement of September 4, 1958, are accordingly regarded by the United States as completely arbitrary and without any basis in recognized international law.

Another problem has been raised in the press with respect to United States escort activities of vessels of the Republic of China. Heretofore the United States vessels have avoided entering the territorial sea around Quemoy and the other offshore islands. The question has been raised whether in so doing we have been giving some implied recognition to the claim of the Chinese Communist regime as to its right to this territorial sea. Nothing could be further from the fact. Since the Government of the Republic of China is in effective control of Quemoy and the other offshore islands, we consider that it has the right to the territorial sea around these islands, just as it has the right to the territorial sea around Formosa. Moreover, just as our warships have, with the consent of the Government of the Republic of China, moved through the territorial sea of Formosa, so similarly with the consent of the Government of the Republic of China they could move through the territorial sea of Quemoy and the other offshore islands. There is no question that the Government of the Republic of China would be willing to give the United States such permission with respect to Quemoy and the offshore islands. However, the United States has thought it best as a matter of policy to keep United States warships in what are clearly international waters near Quemoy and the other offshore islands.

Conclusion

In conclusion, it is our view that from a national and international standpoint the President may properly use United States armed forces for the defense of Formosa and the offshore islands; the United States is not required to recognize the Chinese Communist regime; the declaration by the Chinese Communist regime regarding a 12-mile territorial sea has no validity.

Footnotes

- 1 Address made before Washington Chapter of the Federal Bar Association at Washington, D. C., on Nov. 20 (press release 723 dated Nov. 28).
 - 2 BULLETIN of Jan. 16, 1950, p. 79.
 - 3 Ibid., July 3, 1950, p. 5.
 - 4 For background and text, see *ibid.*, Dec. 13, 1954, p. 895.
 - 5 Ibid., Jan. 24, 1955, p. 152.
 - 6 For President Eisenhower's message to Congress and text of the resolution, see *ibid.*, Feb., 7, 1955, p. 211.
 - 7 Ibid., Oct. 27, 1958, p. 650.
 - 8 For text of the communique and a statement by Secretary Dulles, see *ibid.*, Nov. 10, 1958, p. 721.
 - 9 Ibid., Oct. 6, 1958, p. 525.
 - 10 Ibid., Sept. 8, 1958, p. 385.
 - 11 U. N. doc. A/3159.
 - 12 BULLETIN of June 30, 1958, p. 1111.
- (*Source:* Department of State Bulletin, Vol. XXXIX, No. 1017, pp. 1005-1011; dated Dec. 22, 1958)

Treaty of Mutual Cooperation and Security between the US and Japan

Japan and the United States of America,

Desiring to strengthen the bonds of peace and friendship traditionally existing between them, and to uphold the principles of democracy, individual liberty, and the rule of law,

Desiring further to encourage closer economic cooperation between them and to promote conditions of economic stability and well-being in their countries,

Reaffirming their faith in the purposes and principles of the Charter of the United Nations, and their desire to live in peace with all peoples and all governments,

Recognizing that they have the inherent right of individual or collective self-defense as affirmed in the Charter of the United Nations,

Considering that they have a common concern in the maintenance of international peace and security in the Far East,

Having resolved to conclude a treaty of mutual cooperation and security,

Therefore agree as follows:

Article 1

The Parties undertake, as set forth in the Charter of the United Nations, to settle any international disputes in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered and to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations. The Parties will endeavor in concert with other peace-loving countries to strengthen the United Nations so that its mission of maintaining international peace and security may be discharged more effectively.

Article 2

The Parties will contribute toward the further development of peaceful and friendly international relations by strengthening their free institutions, by bringing about a better understanding of the principles upon which these institutions are founded, and by promoting conditions of stability and well-being. They will seek to eliminate conflict in their international economic policies and will encourage economic collaboration between them.

Article 3

The Parties, individually and in cooperation with each other, by means of continuous and effective self-help and mutual aid will maintain and develop, subject to their constitutional provisions, their capacities to resist armed attack.

Article 4

The Parties will consult together from time to time regarding the implementation of this Treaty, and, at the request of either Party, whenever the security of Japan or international peace and security in the Far East is threatened.

Article 5

Each Party recognizes that an armed attack against either Party in the territories under the administration of Japan would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional provisions and processes. Any such armed attack and all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations in accordance with the provisions of Article 51 of the Charter. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

Article 6

For the purpose of contributing to the security of Japan and the maintenance of international peace and security in the Far East, the United States of America is granted the use by its land, air and naval forces of facilities and areas in Japan. The use of these facilities and areas as well as the status of United States armed forces in Japan shall be governed by a separate agreement, replacing the Administrative Agreement under Article III of the Security Treaty between Japan and the United States of America, signed at Tokyo on February 28, 1952, as amended, and by such other arrangements as may be agreed upon.

Article 7

This Treaty does not affect and shall not be interpreted as affecting in any way the rights and obligations of the Parties under the Charter of the United Nations or the responsibility of the United Nations for the maintenance of international peace and security.

Article 8

This Treaty shall be ratified by Japan and the United States of America in accordance with their respective constitutional processes and will enter into force on the date on which the instruments of ratification thereof have been exchanged by them in Tokyo.

Article 9

The Security Treaty between Japan and the United States of America signed at the city of San Francisco on September 8, 1951 shall expire upon the entering into force of this Treaty.

Article 10

This Treaty shall remain in force until in the opinion of the Governments of Japan and the United States of America there shall have come into force such United Nations arrangements as will satisfactorily provide for the maintenance of international peace and security in the Japan area. However, after the Treaty has been in force for ten years, either Party may give notice to the other Party of its intention to terminate the Treaty, in which case the Treaty shall terminate one year after such notice has been given.

In witness whereof the undersigned Plenipotentiaries have signed this Treaty.

Done in duplicate at Washington in the Japanese and English languages, both equally authentic, this 19th day of January, 1960.

FOR JAPAN:	Nobusuke Kishi 岸信介	Mitsujiro Ishii 石井光次郎	Koichiro Asakai 朝海浩一郎
	Aiichiro Fujiyama 藤山愛一郎	Tadashi Adachi 足立正	

FOR THE UNITED STATES OF AMERICA:	Christian A. Herter	J. Graham Parsons
	Douglas MacArthur 2nd	

■ Editor's note =====

The Treaty of Mutual Cooperation and Security between the United States and Japan is called as follows in Chinese and Japanese:

<p>Chinese: <i>Meilijian bezhongguo yu Ribenguo zhi anquan bao-zhang tiaoyue</i> 美利堅合眾國與日本國之安全保障條約, abbrev. <i>Mei Ri anbao tiaoyue</i> 美日安保條約</p>	<p>Japanese: <i>Nippon kokuto Amerika gasshū koku tono aidano sōgo kyōryoku oyobi anzen boshō jōyaku</i> 日本国とアメリカ合衆国との間の相互協力及び安全保障条約</p>
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Czyzak Memorandum

US Department of State

Memorandum from the Assistant Legal Adviser for Far Eastern Affairs (L/FE - John J. Czyzak) to Mr. Abram Chayes, Legal Adviser

February 3, 1961

Subject: "Legal Status of Formosa (Taiwan) and the Pescadores Islands (Penghu)"

HISTORY OF STATUS OF FORMOSA AND THE PESCADORES

Prior to the Korean Hostilities

From the middle of the 17th century to 1895, Formosa and the Pescadores were part of the Chinese Empire. China then ceded these islands to Japan in 1895 in the Treaty of Shimonoseki.

When China declared war on Japan on December 9, 1941, she also declared that all treaties concerning the relations between China and Japan "are and remain null and void".

In the Cairo Declaration of 1943, the United States, Great Britain and China stated it to be their purpose that "all the territories that Japan has stolen from the Chinese, such as ... Formosa and the Pescadores, shall be restored to the Republic of China". These same three governments on July 26, 1945 issued the Potsdam Proclamation declaring that "the terms of the Cairo Declaration shall be carried out and Japanese sovereignty shall be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as we determine". On August 8, 1945 the Soviet Union adhered to the Potsdam Proclamation. In the Instrument of Surrender signed September 2, 1945, the Japanese Government accepted its provisions.

Pursuant to Japanese Imperial General Headquarters General Order No. 1 issued at the direction of the Supreme Commander for the Allied Powers (SCAP), Japanese commanders in Formosa surrendered to Generalissimo Chiang Kai-shek "acting on behalf of the United States, the Republic of China, the United Kingdom and the British Empire, and the Union of Soviet Socialist Republics". Continuously since that time, the Government of the Republic of China has occupied and administered Formosa and the Pescadores and subsequent to the surrender declared Formosa to be a part of China. Although there is no indication that the United States ever received official notification of such declaration, it can be said that the United States was aware of the fact that the Republic of China treated Formosa as a part of China. The view of the United States government in the post-war period, however, was typified by a statement on April 11, 1947 of Acting Secretary Acheson that the transfer of sovereignty over Formosa to China "has not yet been formalized". Sovereignty, it would appear, remained in Japan.

After a prolonged period of civil strife, the Chinese Communists succeeded in driving the Government of the Republic of China off the Chinese mainland. On October 1, 1949 the Chinese Communists proclaimed the establishment of the Peoples Republic of China. The seat of the Government of the Republic of China was transferred to Formosa, and in early December 1949, Taipei became its provisional capital.

The Korean Conflict

The outbreak of hostilities in Korea on June 25, 1950 brought to the fore the question of the status of Formosa and the Pescadores. President Truman, in ordering the U.S. Seventh Fleet to prevent any attack on Formosa, stated that "the determination of the future status of Formosa must await the restoration of security in the Pacific, a peace settlement with Japan, or consideration by the United Nations".

[On August 25, 1950] the United States replied to the United Nations Security Council that

"The action of the United States was expressly stated to be without prejudice to the future political settlement of the status of the island. The actual status of the island is that it is territory taken from Japan by the victory of the allied forces in the Pacific. Like other such territories, its legal status cannot be fixed until there is international action to determine its future. The Chinese Government was asked by the Allies to take the surrender of the Japanese forces on the Island. That is the reason the Chinese are there now."

By a letter dated September 20, 1950, the United States requested that the question of Formosa be placed on the agenda of the fifth session of the U.N. General Assembly. In an explanatory note of September 21, the United States, citing the Cairo and Potsdam declarations and the Japanese surrender, stated nevertheless:

“Formal transfer of Formosa to China was to await the conclusion of peace with Japan or some other appropriate formal act.”

Consideration of this item by the General Assembly was eventually postponed.

Meanwhile the Soviet Union submitted a draft resolution to the UN Security Council condemning the United States for acts of aggression and intervention in the internal affairs of China. The USSR also proposed for inclusion on the agenda of the fifth regular session of the General Assembly the question of “American aggression against China”. In both cases the USSR asserted that Taiwan was an inalienable part of the territory of China. The U.S. delegate in Committee One, John Foster Dulles, answered the Soviet complaint of aggression in part as follows:

“In connection with this whole question of Formosa, I think it is wise for us to bear in mind that Formosa is still affected with an international interest. It is a former Japanese colony in the process of detachment. The United States certainly is entitled to some voice in the determination of the future of Formosa, because if it were not for the tremendous military effort and the great sacrifice which the United States made in that area of the world, none of us here today would be sitting around talking about Formosa.

“The United States, as one of the principal victors in the war against Japan, has a legitimate voice in what President Truman referred to as the “determination of the future status of Formosa,” which he says, “must await the restoration of security in the Pacific, a peace settlement with Japan or consideration by the United Nations.”

The Security Council defeated the Soviet resolution, and the General Assembly failed to endorse the charges against the U.S.

Japanese Peace Treaty

In September and October 1950, the United States proposed in a brief statement to the members of the Far Eastern Commission general principles for a Peace Treaty with Japan.

In an aide memoire dated November 20, 1950, the USSR commented:

“2. By the Cairo Declaration of December 1, 1943 . . . and the Potsdam Agreement of July 26, 1945 . . . the question of returning Formosa and the Pescadores to China was decided. In a similar manner the Yalta Agreement of February 11, 1945 . . . decided the questions of returning the southern part of Sakhalin Island and the adjacent islands to the Soviet Union and handing over to her the Kurile Islands.”

The United States replied in an aide memoire dated December 27, 1950:

“ ... 2. The Cairo Declaration of 1943 stated the purpose to restore 'Manchuria, Formosa and the Pescadores to the Republic of China.' That declaration, like other wartime declarations such as those of Yalta and Potsdam, was in the opinion of the United States Government subject to any final peace settlement where all relevant factors should be considered ... ”

From September 4 to 8, 1951 a conference for the conclusion and signature of a Treaty of Peace with Japan was held at San Francisco. China was not represented at the Conference because of the disagreement among the participants as to who actually represented the government of that country. Reflecting this disagreement is Article 2 of the Peace Treaty as it was signed on September 8 which reads in its pertinent part:

“(b) Japan renounces all right, title and claim to Formosa and the Pescadores.”

John Foster Dulles, U.S. delegate at the Conference, commented on this provision in Article 2:

“Some Allied Powers suggested that Article 2 should not merely delimit Japanese sovereignty according to Potsdam, but specify precisely the ultimate disposition of each of the ex-Japanese territories. This, admittedly, would have been neater. But it would have raised questions as to which there are now no agreed answers. We had either to give Japan peace on the Potsdam surrender terms or deny peace to Japan while the allies quarrel about what shall be done with what Japan is prepared, and required, to give up. Clearly, the wise course was to proceed now, so far as Japan is concerned, leaving the future to resolve doubts by invoking international solvents other than this treaty.”

The delegate of the United Kingdom remarked:

“The treaty also provides for Japan to renounce its sovereignty over Formosa and the Pescadores Islands. The treaty itself does not determine the future of these islands.”

The USSR refused to sign the Treaty. It objected, among other things, to the provision regarding Formosa and the Pescadores:

“... this draft grossly violates the indisputable rights of China to the return of integral parts of Chinese territory; Taiwan, the Pescadores, the Paracel and other islands ... the draft contains only a reference to the renunciation by Japan of its rights to these territories but intentionally omits any mention of the further fate of these territories.”

It is clear from these and other statements made at San Francisco, that sovereignty over Formosa and the Pescadores was not considered to have finally been determined by the Peace Treaty.

The Senate Committee on Foreign Relations also took this view. In its Report on the Treaty dated February 14, 1952, the Committee stated:

“It is important to remember that Article 2 is a renunciatory article and makes no provision for the power or powers which are to succeed Japan in the possession of and sovereignty over the ceded territory.

“During the negotiation of the Treaty some of the Allied Powers expressed the view that Article 2 of the treaty should not only relieve Japan of its sovereignty over the territories in question but should indicate specifically what disposition was to be made of each of them. The committee believes, however, that this would have been an unwise course to pursue. It might have raised differences among the allies which would have complicated and prolonged the conclusions of the peace. Under the circumstances it seems far better to have the treaty enter into force now, leaving to the future the final disposition of such areas as South Sakhalin and the Kuriles.”

Although China was not a party to the San Francisco Treaty, a separate Treaty of Peace between the Republic of China and Japan was signed in Taipei on April 28, 1952. Article II of that treaty provided:

“It is recognized that under Article 2 of the Treaty of Peace with Japan signed at the city of San Francisco in the United States of America on September 8, 1951 ... Japan has renounced all right, title and claim to Taiwan (Formosa) and Penghu (the Pescadores) as well as the Spratly Islands and the Paracel Islands.”

Article 25 of the Treaty stated that the Treaty shall not confer any rights, title or benefits on any state not a party to the Treaty.

Chinese Mutual Defense Treaty and the Formosa Resolution

Against the background of a massive Chinese Communist propaganda campaign for the "liberation" of Taiwan, supplemented by military action against Quemoy and other offshore islands, the United States and the Republic of China signed a Mutual defense Treaty on December 2, 1954. The first paragraph of Article V of the Treaty reads:

“Each Party recognizes that an armed attack in the West Pacific Area directed against the territories of either of the Parties would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional processes.”

Article VI provides that for the purpose of Article V the term “territories” shall mean in respect to the Republic of China, “Taiwan and the Pescadores”. In an exchange of notes accompanying the Treaty, there appears the statement, “The Republic of China effectively controls both the territory described in Article VI of the Treaty of Mutual Defense . . . and other territory”.

In its report on the Treaty, the Senate Committee on Foreign Relations briefly discussed the question of the status of Formosa and the Pescadores:

“By the peace treaty of September 8, 1951, signed with the United States and other powers, Japan renounced 'all right, title and claim to Formosa and the Pescadores.' The treaty did not specify the nation to which such right, title and claim passed. Although the Republic of China was not a signatory to the Treaty, it and the parties at the conference expressly recognized that it did not dispose finally of Formosa and the Pescadores

“Secretary Dulles informed the committee that the reference in Article V to 'the territories of either of the Parties' was language carefully chosen to avoid denoting anything one way or another as to their sovereignty.

“It is the view of the committee that the coming into force of the present treaty will not modify or affect the existing legal status of Formosa and the Pescadores. The treaty appears to be wholly consistent with all actions taken by the United States in this matter since the end of World War II, and does not introduce any basically new element in our relations with the territories in question

“To avoid any possibility of misunderstanding on this aspect of the treaty, the committee decided it would be useful to include in this report the following statement: It is the understanding of the Senate that nothing in the treaty shall be construed as affecting or modifying the legal status or sovereignty of the territories to which it applies.”

The question of the status of Formosa and the Pescadores was again discussed on January 24, 1955, before a joint executive session of the Senate committees on Foreign Relations and Armed Services, in connection with the Formosa Resolution. It is understood that during the course of these hearings, Secretary Dulles indicated that sovereignty over Formosa and the Pescadores was not considered to have been transferred to the Republic of China in the Japanese Peace Treaty and that the question of sovereignty over these islands was not yet finally determined.

DISCUSSION

It may be well at this time to examine the various legal theories outlined [in] this memorandum regarding the status of Formosa and the Pescadores in the light of the historical analysis set forth above.

1. The most tenable theory regarding the status of Formosa and the Pescadores is that sovereignty over the islands has not yet been finally determined. The Cairo and Potsdam declarations were statements of intention on the part of the Allied Powers that the islands would return to “the Republic of China”. Chiang Kai-shek was authorized by the Allied Powers to take the surrender of the Japanese on the islands, and the Government of the Republic of China has continued to occupy and administer the islands ever since. This surrender by Japan of Formosa and the Pescadores, although providing a legal basis for the continued occupation and administration of the islands by the Government of the Republic of China, would not appear to have effected a transfer of sovereignty to the Republic of China.

Because of differences among the Allied Powers as to who represented China, no agreement on the disposition of Formosa and the Pescadores could be reached in the Japanese Peace Treaty. That the San Francisco Peace Treaty was intended to divest Japan of its sovereignty over the islands without transferring that sovereignty to any other country is abundantly clear from the record. There does not appear to have occurred anything subsequent to the Peace Treaty which can be said to have effected a transfer of that sovereignty.

An analogy to the status of Formosa as described may be found in the case of Cuba after the Spanish-American War. By Article I of the treaty of peace between the United States and Spain of December 10, 1898, Spain relinquished “all claim of sovereignty over and title to Cuba”. Although the treaty named the United States as occupying power for the relinquished territory, it did not specify to whom sovereignty was to be transferred.

It may be well to point out that the legal status of the offshore islands, the Quemoy and Matsu groups, is different from that of Formosa and the Pescadores as described here. The offshore islands, although like Formosa and the Pescadores under the control of the Republic of China, have always been considered as part of “China”. As Secretary Dulles explained:

“The legal position is different . . . , by virtue of the fact that technical sovereignty over Formosa and the Pescadores has never been settled. That is because the Japanese Peace Treaty merely involves a renunciation by Japan of its right and title to these islands. But the future title is not determined by the Japanese Peace Treaty nor is it determined by the Peace Treaty which was concluded between the Republic of China and Japan. Therefore the juridical status of these islands, Formosa and the Pescadores, is different from the juridical status of the offshore islands which have always been Chinese territory.”

The usual way in which a formal transfer of territory is effected under international law is by cession, which typically consists of an agreement between the ceding and acquiring state. No such cession has occurred here. As has been seen, the Republic of China did declare the islands to be a part of China subsequent to the surrender, and such declaration might be considered an annexation of this territory. However, in view of the fact that Chiang Kai-shek, in accepting the Japanese surrender, was acting on behalf of the Allied Powers, it may be questioned whether any such attempted annexation would have validity in international law. Normally, military occupation does not have the effect of transferring sovereignty over the occupied territory to the occupant. Furthermore, the whole history of the San Francisco and Sino-Japanese Peace Treaties casts doubt on this interpretation.

... it has been contended that the transfer of Formosa and the Pescadores to Japan in the Treaty of Shimonoseki was null and void in that these islands had been taken away from China at that time by force, contrary to international law. However, it is generally accepted that international law as it existed at that time disregarded “the effect of coercion in the conclusion of a treaty imposed by the victor upon the vanquished State” [I Oppenheim, *International Law* 891 (8th ed. Lauterpacht 1955)].

On February 11, 1945, at Yalta, Churchill, Roosevelt, and Stalin agreed that the USSR would enter the war against Japan on condition, among others, that the southern part of Sakhalin and all the islands adjacent to it “shall be returned to the Soviet Union” and that the Kurile Islands “shall be handed over the Soviet Union”. The Yalta agreement like the Cairo declaration has been considered by the United States to be a statement of intention rather than as creating binding international commitments.

The question of the status of Formosa and the Pescadores must be viewed in the light of a parallel question regarding the Kurile Islands, the southern portions of Sakhalin and certain islands adjacent to it. Pursuant to the same instrument which directed Chiang Kai-shek to accept the Japanese surrender on Formosa and the Pescadores, the Soviet Union accepted the Japanese surrender on these islands and has continuously thereafter controlled and administered them. The USSR purported to annex the islands by a decree of February 2, 1946. The United States Government has maintained, however, that the USSR does not possess sovereignty over them.

UN Resolution 1668

United Nations
General Assembly—Sixteenth Session

1668 (XVI). Representation of China in the United Nations.

The General Assembly,

Noting that a serious divergence of views exists among Member States concerning the representation of a founder Member who is named in the Charter of the United Nations,

Recalling that this matter has been described repeatedly in the General Assembly by all segments of opinion as vital and crucial and that on numerous occasions its inclusion in the agenda has been requested under rule 15 of the Assembly's rules of procedure as an item of an important and urgent character,

Recalling further the recommendation contained in its resolution 396 (V) of 14 December 1950 that, whenever more than one authority claims to be the government entitled to represent a Member State in the United Nations and this question becomes the subject of controversy in the United Nations, the question should be considered in the light of the purposes and principles of the Charter and the circumstances of each case,

Decides, in accordance with Article 18 of the Charter of the United Nations, that any proposal to change the representation of China is an important question.

1080th plenary meeting,

15 December 1961.

聯合國決議 1668 號

大會第十六屆會

一六六八（十六）· 中國在聯合國之代表權問題

大會，

鑒於各會員國對於列名於聯合國憲章之一創始會員國之代表權問題，意見極度懸殊，憶及此一問題會一再在大會被各方意見指為重大而有決定性之問題，且屢經依據大會議事規則第十五條作為重要而緊急之項目請求列入議程，

復憶大會一九五〇年十二月十四日決議案三九六（五）中建議，凡遇主張有權代表某一會員國出席聯合國之政府不止一個當局，而該問題又成為聯合國爭執之點時，則此問題應依憲章宗旨原則並就個別情形，予以審議，

茲決議依照聯合國憲章第十八條之規定，任何改變中國代表權之提案為一重要問題。

一九六一年十二月十五日，

第一〇八〇次全體會議。

Okinawa Reversion Agreement

Agreement Between the United States of America and Japan Concerning the Ryukyu Islands and the Daito Islands
Washington and Tokyo (simultaneously), 17th June, 1971

The United States of America and Japan

Noting that the President of the United States of America and the Prime Minister of Japan reviewed together on November 19, 20, and 21, 1969 the status of the Ryukyu Islands the Daito Islands, referred to as “Okinawa” in the Joint Communique between the President and the Prime Minister issued on November 21, 1969, and agreed that the Government of the United States of America and the Government of Japan should enter immediately into consultations regarding the specific arrangements for accomplishing the early reversion of these islands to Japan;

Noting that the two Governments have conducted such consultations and have reaffirmed that the reversion of these islands to Japan be carried out on the basis of the said Joint Communique;

Considering the United States of America desires, with respect to the Ryukyu Islands and the Daito Islands, to relinquish in favour of Japan all rights and interests under Article III of the Treaty of Peace with Japan signed at the City of San Francisco on September 8, 1951, and thereby to have relinquished all its rights and interests in all territories under the said Article; and Considering further that Japan is willing to assume full responsibility and authority for the exercise of all powers of administration, legislation and jurisdiction over the territory and inhabitants of the Ryukyu Islands and the Daito Islands;

Therefore, have agreed as follows:

Article 1

1. With respect to the Ryukyu Islands and the Daito Islands, as defined in paragraph 2 below, the United States of America relinquishes in favour of Japan all rights and interests under Article III of the Treaty of Peace with Japan signed at the City of San Francisco on September 8, 1951, effective as of the date of entry into force of this Agreement. Japan, as of such date, assumes full responsibility and authority for the exercise of all and any powers of administration, legislation and jurisdiction over the territory and inhabitants of the said islands.

2. For the purpose of this Agreement, the term “the Ryukyu Islands and the Daito Islands” means all the territories and their territorial waters with respect to which the right to exercise all and any powers of administration, legislation and jurisdiction was accorded to the United States of America under Article III of the Treaty of Peace with Japan other than those with respect to which such right has already been returned to Japan in accordance with the Agreement concerning the Amami Islands and the Agreement concerning Nanpo Shoto and Other Islands signed between the United States of America and Japan, respectively on December 24, 1953 and April 5, 1968.

Article 2

It is confirmed that treaties, conventions and other agreements concluded between the United States of America and Japan, including, but without limitation, the Treaty of Mutual Cooperation and Security between the United States of America and Japan signed at Washington on January 19, 1960, and its related arrangements and the Treaty of Friendship, Commerce and Navigation between the United States of America and Japan signed at Tokyo on April 2, 1953, become applicable to the Ryukyu Islands and the Daito Islands as of the date of entry into force of this Agreement.

Article 3

1. Japan will grant the United States of America on the date of entry into force of this Agreement the use of facilities and areas in the Ryukyu Islands and the Daito Islands in accordance with the Treaty of Mutual Cooperation and Security between the United States of America and Japan signed at Washington on January 19, 1960 and its related arrangements.

2. In the application of Article IV of the Agreement under Article VI of the Treaty of Mutual Cooperation and Security between the United States of America and Japan, regarding Facilities and Areas and the Status of the United States Armed Forces in Japan signed on January 19, 1960, to the facilities and areas the use of which will be granted

in accordance with paragraph I above to the United States of America on the date of entry into force of this Agreement, it is understood that the phrase “the condition in which they were at the time they became available to the United States Armed Forces” in paragraph I of the said Article IV refers to the condition in which the facilities and areas first came into the use of the United States Armed Forces, and that the term “improvements” in paragraph 2 of the said Article includes those made prior to the date of entry into force of this Agreement.

Article 4

1. Japan waives all claims of Japan and its nationals against the United States of America and its nationals and against the local authorities of the Ryukyu Islands and the Daito Islands, arising from the presence, operations or actions of forces or authorities of the United States of America in these islands, or from the presence, operations or actions of forces or authorities of the United States of America having had any effect upon these islands, prior to the date of entry into force of this Agreement.
2. The waiver in paragraph 1 above does not, however, include claims of Japanese nationals specifically recognized in the laws of the United States of America or the local laws of these islands applicable during the period of United States administration of these islands. The Government of the United States of America is authorised to maintain its duly empowered officials in the Ryukyu Islands and the Daito Islands in order to deal with and settle such claims on and after the date of entry into force of this Agreement in accordance with the procedures to be established in consultation with the Government of Japan.
3. The Government of the United States of America will make *ex gratia* contributions for restoration of lands to the nationals of Japan whose lands in the Ryukyu Islands and the Daito Islands were damaged prior to July 1, 1950, while placed under the use of United States authorities, and were released from their use after June 30, 1961 and before the date of entry into force of this Agreement. Such contributions will be made in an equitable manner in relation under High Commissioner Ordinance Number 60 of 1967 to claims for damages done prior to July 1, 1950 to the lands released prior to July 1, 1961.
4. Japan recognizes the validity of all acts and omissions done during the period of the United States administration of the Ryukyu Islands and the Daito Islands under or in consequence of directives of the United States or local authorities, authorised by existing law during that period, and will take no action subjecting the United States nationals or the residents of these islands to civil or criminal liability arising out of such acts of omissions.

Article 5

1. Japan recognizes the validity of, and will continue in full force and effect, final judgements in civil cases rendered by any court in the Ryukyu Islands and the Daito Islands prior to the date of entry into force of this Agreement, provided that such recognition or continuation would not be contrary to public policy.
2. Without in any way adversely affecting the substantive rights and positions of the litigants concerned, Japan will assume jurisdiction over and continue judgement and execution of any civil case pending as of the date of entry into force of this Agreement in any court in the Ryukyu Islands and the Daito Islands.
3. Without in any way adversely affecting the substantive rights of the accused or suspect concerned, Japan will assume jurisdiction over, and may continue or institute proceedings with respect to, any criminal cases with which any court in the Ryukyu Islands and the Daito Islands is seized as of the date of entry into force of this Agreement or would have been seized had the proceedings been instituted prior to such date.
4. Japan may continue the execution of any final judgements rendered in criminal cases by any court in the Ryukyu Islands and the Daito Islands.

Article 6

1. The properties of the Ryukyu Electric Power Corporation, the Ryukyu Domestic Water Corporation and the Ryukyu Development Loan Corporation shall be transferred to the Government of Japan on the date of entry into force of this Agreement, and the rights and obligations of the said Corporations shall be assumed by the Government of Japan on that date on conformity with the laws and regulations of Japan.
2. All other properties of the Government of the United States of America, existing in the Ryukyu Islands and the Daito Islands as of the date of entry into force of this Agreement and located outside the facilities and areas provided on that date in accordance with Article III of this Agreement, shall be transferred to the Government of Japan on that date, except for those that are located on the lands returned to the landowners concerned before the date of entry into force of this Agreement and for those the title to which will be retained by the Government of the United States of America after that date with the consent of the Government of Japan.

3. Such lands in the Ryukyu Islands and the Daito Islands reclaimed by the Government of the United States of America and such other reclaimed lands acquired by it in these islands are held by the Government of the United States of America as of the date of entry into force of this Agreement become the property of the Government of Japan on that date.

4. The United States of America is not obliged to compensate Japan or its nationals for any alteration made prior to the date of entry into force of this agreement to the lands upon which the properties transferred to the Government of Japan under paragraphs 1 and 2 above are located.

Article 7

Considering, inter alia, that United States assets are being transferred to the Government of Japan under Article VI of this Agreement, that the Government of the United States of America is carrying out the return of the Ryukyu Islands and the Daito Islands to Japan in a manner consistent with the policy of the Government of Japan as specified in paragraph 8 of the Joint Communique of November 21, 1969, and that the Government of the United States of America will bear extra costs, particularly in the area of employment after reversion, the Government of Japan will pay to the Government of the United States of America in United States dollars a total amount of three hundred and twenty million United States dollars (U.S. \$320,000,000) over a period of five years from the date of entry into force of this Agreement. Of the said amount, the Government of Japan will pay one hundred million United States dollars (U.S. \$100,000,000) within one week after the date of entry into force of this Agreement and the remainder in four equal annual instalments in June of each calendar year subsequent to the year in which this Agreement enters into force.

Article 8

The Government of Japan consents to the continued operation by the Government of the United States of America of the Voice of America relay station on Okinawa island for a period of five years from the date of entry into force of this Agreement in accordance with the arrangements to be concluded between the two Governments. The two Governments shall enter into consultation two years after the date of entry into force of this Agreement on future operation of the Voice of America on Okinawa Island.

Article 9

This Agreement shall be ratified and the instruments of ratification shall be exchanged at Tokyo. This Agreement shall enter into force two months after the date of exchange of the instruments of ratification.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

DONE at Washington and Tokyo, this seventeenth day of June, 1971, in duplicate in the English and Japanese language, both equally authentic.

For the United States of America: WILLIAM P. ROGERS

For Japan: KIICHI AICHI 愛知揆一

■ Editor's note =====

The U.S. reverted the islands to Japan on May 15, 1972.

The Okinawa Reversion Agreement is called as follows in Chinese and Japanese:

Chinese: <i>Chongsheng guibuan xieding</i> 冲繩歸還協定	Japanese: <i>Okinawa henkan kyōtei</i> 冲繩返還協定
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The full formal title (Agreement between Japan and the United States of America Concerning the Ryukyu Islands and the Daito Islands) translates to Japanese as follows: *Ryūkyū shotō oyobi Daitō shotō ni kansuru Nippon kokuto Amerika gasshū koku tonō aidano kyōtei* 琉球諸島及び大東諸島に関する日本国とアメリカ合衆国との間の協定.

Starr Memorandum

US Department of State

Memorandum from the Assistant Legal Adviser for East Asia and the Pacific (L/EA - Robert I. Starr) to the Director of the Office of Republic of China Affairs (Charles T. Sylvester)

July 13, 1971

Subject: "Legal Status of Taiwan"

You have asked for a comprehensive memorandum analyzing the question of the legal status of Taiwan in terms suitable for Congressional presentation. Attached is a paper that should serve this purpose. It is drawn mainly from the February 3, 1961 Czyzak memorandum, and contains no sensitive information or reference to classified documents.

Concurrence: L – Mr. Salans

L:L/EA:RIS Starr:cdj; 7/13/71 ex 28900

Legal Status of Taiwan

Prior to the Korean Hostilities

From the middle of the 17th century to 1895, Formosa (Taiwan) and the Pescadores (Penghu) were part of the Chinese Empire. China then ceded these islands to Japan in 1895 in the Sino-Japanese Treaty of Shimonoseki.

In the Cairo Declaration of 1943, the United States, Great Britain, and China stated it to be their purpose that "all the territories that Japan has stolen from the Chinese, such as...Formosa and the Pescadores, shall be restored to the Republic of China". These same three governments on July 26, 1945 issued the Potsdam Proclamation declaring that "the terms of the Cairo Declaration shall be carried out and Japanese sovereignty shall be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku, and such minor islands as we determine". On August 8, 1945 the Soviet Union adhered to the Potsdam Proclamation. By an Imperial Rescript of September 2, 1945, the Japanese Emperor accepted the terms of the Potsdam Declaration, and in the Instrument of Surrender signed on the same date, the Japanese Government "and their successors" undertook to carry out the provisions of the Declaration.

Pursuant to Japanese Imperial General Headquarters General Order No. 1, issued at the direction of the Supreme Commander for the Allied Powers (SCAP), Japanese commanders in Formosa surrendered to Generalissimo Chiang Kai-shek "acting on behalf of the United States, the Republic of China, the United Kingdom and the British Empire, and the Union of Soviet Socialist Republics". Continuously since that time, the Government of the Republic of China has occupied and exercised authority over Formosa and the Pescadores.

The view of the U.S. in the intermediate post-war period was typified by a statement on April 11, 1947 of then Acting Secretary of State Acheson, in a letter to Senator Ball, that the transfer of sovereignty over Formosa to China "has not yet been formalized".

After a prolonged period of civil strife the Chinese Communists succeeded in driving the Government of the Republic of China off the Chinese mainland. On October 1, 1949 the Chinese Communists proclaimed the establishment of the People's Republic of China. The seat of the Government of the Republic of China was transferred to Formosa, and in early December 1949, Taipei became its provisional capital.

Shortly thereafter, President Truman, in a statement of January 5, 1950, referred to a U.N. General Assembly Resolution of December 8, 1949, (Res. 291(IV)) which called on all states to refrain from "(a) seeking to acquire spheres of influence or to create foreign controlled regimes within the territory of China; (b) seeking to obtain special rights or privileges within the territory of China". He said:

"A specific application of the foregoing principles is seen in the present situation with respect to Formosa ...

"The United States has no predatory designs on Formosa or on any other Chinese territory. The United States has no desire to obtain special rights or privileges or to establish military bases on Formosa at this time... the United States Government will no pursue a course which will lead to involvement in the civil conflict in China."

The Korean Conflict

The outbreak of hostilities in Korea on June 25, 1950 brought to the fore the question of the status of Formosa and the Pescadores. President Truman ordered the U.S. Seventh Fleet to prevent any attack on Formosa, and as a

corollary called upon the Chinese Government on Formosa to cease all operations against the mainland. In addition, he stated that “the determination of the future status of Formosa must await the restoration of security in the Pacific, a peace settlement with Japan, or consideration by the United Nations”.

On August 24, 1950 the United States explained its position to the United Nations Security Council in the following terms:

“The action of the United States was expressly to be without prejudice to the future political settlement of the status of the island. The actual status of the island is that it is territory taken from Japan by the victory of the allied forces in the Pacific. Like other such territories, its legal status cannot be fixed until there is international action to determine its future. The Chinese Government was asked by the allies to take the surrender of the Japanese forces on the Island. That is the reason the Chinese are there now.”

By a letter dated September 20, 1950, the United States requested that the question of Formosa be placed on the agenda of the fifth session of the U.N. General Assembly. In an explanatory note of September 21, the United States, citing the Cairo and Potsdam declarations and the Japanese surrender, stated nevertheless:

“Formal transfer of Formosa to China was to await the conclusion of peace with Japan or some other appropriate formal act.”

That note also stated:

“The Government of the United States has made it abundantly clear that the measures it has taken with respect to Formosa were without prejudice to the long-term political status of Formosa, and the United States has no territorial ambitions and seeks no special position of privilege with respect to Formosa. The United States believes further that the future of Formosa and of the nearly eight million people inhabited there should be settled by peaceful means in accordance with the Charter of the United Nations.”

Japanese Peace Treaty

From September 4 to 8, 1951 a conference for the conclusion and signature of a Treaty of Peace was held at San Francisco. China was not represented at the Conference because of the disagreement among the participants as to who actually represented the government of that country. Reflecting this disagreement is article 2 of the Peace Treaty, which reads in its pertinent part:

“(b) Japan renounces all right, title, and claim to Formosa and the Pescadores.”

John Foster Dulles, U.S. delegate at the Conference, commented on this provision in article 2:

“Some Allied Powers suggested that article 2 should not merely delimit Japanese sovereignty according to Potsdam, but specify precisely the ultimate disposition of each of the ex-Japanese territories. This, admittedly, would have been neater. But it would have raised questions as to which there are now no agreed answers. We had either to give Japan peace on the Potsdam Surrender Terms or deny peace to Japan while the allies quarrel about what shall be done with what Japan is prepared, and required, to give up. Clearly, the wise course was to proceed now, so far as Japan is concerned, leaving the future to resolve doubts by invoking international solvents other than this treaty.”

The delegate of the United Kingdom remarked:

“The treaty also provides for Japan to renounce its sovereignty over Formosa and the Pescadores Islands. The treaty itself does not determine the future of these islands.”

The USSR refused to sign the Treaty. It objected, among other things, to the provision regarding Formosa and the Pescadores:

“...this draft grossly violates the indisputable rights of China to the return of integral parts of Chinese territory: Taiwan, the Pescadores, the Paracel and other islands.... The draft contains only a reference to the renunciation by Japan of its rights to these territories but intentionally omits any mention of the further fate of these territories.”

It is clear from these and other statements made at San Francisco, that although the Treaty provision constituted an appropriate act of renunciation by Japan, the future status of Formosa and the Pescadores was not considered to have finally been determined by the Peace Treaty.

The Senate Committee on Foreign Relations also took this view. In its Report on the Treaty dated February 14, 1952, the Committee stated:

“It is important to remember that article 2 is a renunciatory article and makes no provision for the power or powers which are to succeed Japan in the possession of and sovereignty over the ceded

territory.

“During the negotiation of the Treaty some of the Allied Powers expressed the view that article 2 of the treaty should not only relieve Japan of its sovereignty over the territories in question but should indicate specifically what disposition was to be made of each of them. The committee believes, however, that this would have complicated and prolonged the conclusion of the peace. Under the circumstances it seems far better to have the treaty enter into force now, leaving to the future the final disposition of such areas as South Sakhalin and the Kuriles.”

Although China was not a party to the San Francisco Treaty, a separate Treaty of Peace between the Republic of China and Japan was signed in Taipei on April 28, 1952. Article II of that treaty provided:

“It is recognized that under Article 2 of the Treaty of Peace with Japan signed at the city of San Francisco in the United States of America on September 8, 1951..., Japan has renounced all right, title and claim to Taiwan (Formosa) and Penghu (the Pescadores)...”

Explaining this provision to the Legislative Yuan, Foreign Minister Yeh of the Republic of China stated that under the San Francisco Peace Treaty “no provision was made for the return [of these islands] to China.” He continued:

“Inasmuch as these territories were originally owned by us and as they are now under our control and, furthermore, Japan has renounced in the Sino-Japanese peace treaty these territories under the San Francisco Treaty of Peace, they are, therefore, in fact restored to us.”

At another point, Foreign Minister Yeh stated that “no provision has been made either in the San Francisco Treaty of Peace as to the future of Taiwan and Penghu”. During the interpellations of the Sino-Japanese Peace Treaty in the Legislative Yuan, the Foreign Minister was asked, “What is the status of Formosa and the Pescadores?” He replied:

“Formosa and the Pescadores were formerly Chinese territories. As Japan has renounced her claim to Formosa and the Pescadores, only China has the right to take them over. In fact, we are controlling them now, and undoubtedly they constitute a part of our territories. However, the delicate international situation makes it that they do not belong to us. Under present circumstances, Japan has no right to transfer Formosa and the Pescadores to us; nor can we accept such a transfer from Japan even if she so wishes... In the Sino-Japanese peace treaty, we have made provisions to signify that residents including juristic persons of Formosa and the Pescadores bear Chinese nationality, and this provision may serve to mend any future gaps when Formosa and the Pescadores are restored to us.”

Chinese Mutual Defense Treaty

Against the background of a Chinese Communist propaganda campaign in July, 1954 for the “liberation” of Taiwan, supplemented in September, 1954 by military action against Quemoy and other offshore islands, the United States and the Republic of China signed a Mutual Defense Treaty on December 2, 1954. The first paragraph of Article V of the Treaty reads:

“Each Party recognizes that an armed attack in the West Pacific Area directed against the territories of either of the Parties would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional processes.”

Article VI provides that for the purpose of Article V the term “territories” shall mean in respect to the Republic of China, “Taiwan and the Pescadores”. In an exchange of notes accompanying the Treaty, there appears the statement, “The Republic of China effectively controls both the territory described in Article VI of the Treaty... and other territory”.

In its report on the Treaty, the Senate Committee of Foreign Relations discussed the question of the true status of Formosa and the Pescadores:

“By the peace treaty of September 8, 1951, signed with the United States and other powers, Japan renounced ‘all right, title and claim to Formosa and the Pescadores.’ The treaty did not specify the nation to which such right, title and claim passed. Although the Republic of China was not a signatory to the Treaty, it recognized that it did not dispose finally of Formosa and the Pescadores

“...he (Secretary Dulles) informed the committee that the reference in article V to ‘the territories of either of the Parties’ was language carefully chosen to avoid denoting anything one way or the other as to their sovereignty.

“It is the view of the committee that the coming in to force of the present treaty will not modify or affect the existing legal status of Formosa and the Pescadores. The treaty appears to be wholly

consistent with all actions taken by the United States in this matter since the end of World War II, and does not introduce any basically new element in our relations with the territories in question. Both by act and by implication we have accepted the Nationalist Government as the lawful authority on Formosa.”

To avoid any possibility of misunderstanding on this aspect of the treaty, the committee decided it would be useful to include in this report to following statement: “It is the understanding of the Senate that nothing in the treaty shall be construed as affecting or modifying the legal status or sovereignty of the territories to which it applies.”

In presenting the Committee’s report to the Senate on February 9, 1955, Senator Walter George referred to the question of the legal status of Taiwan: “The view was advance during committee’s consideration of the treaty that it may have the effect of recognizing that the government of Chiang Kai-shek has sovereignty over Formosa and the Pescadores.”

On the one hand, reference was made to the Cairo Declaration which stated that Japan was to be stripped of her island territories in the Pacific and that territories stolen from the Chinese such as Formosa and the Pescadores shall be restored to the Republic of China. On the other hand, reference was made to the fact that while Japan renounced all right, title and claim to Formosa and the Pescadores, such title was not conveyed to any nation. After full exploration of this matter with Secretary Dulles, the committee decided that this treaty was not a competent instrument to resolve doubts about sovereignty over Formosa. It agreed to include in its report the following statement:

“It is the understanding of the Senate that nothing in the present treaty shall be construed as affecting or modifying the legal status or the sovereignty of the territories referred to in article VI.

In other words, so far as the United States in concerned, it is our understanding that the legal status of the territories referred to in article VI, namely, Formosa and the Pescadores – whatever their status may be – is not altered in any way by the conclusion of this treaty.”

Quemoy and Matsu

It may be well to note the special status of the offshore islands, the Quemoy and Matsu groups, in contrast to that of Formosa and the Pescadores as described here. The offshore islands have always been considered as part of “China”. As Secretary Dulles explained in 1954:

“The legal position is different..., by virtue of the fact that technical sovereignty over Formosa and the Pescadores has never been settled. That is because the Japanese Peace Treaty merely involves a renunciation by Japan of its right and title to these islands. But the future title is not determined by the Japanese Peace Treaty nor is it determined by the Peace Treaty which was concluded between the Republic of China and Japan. Therefore the juridical status of these islands, Formosa and the Pescadores, is different from the juridical status of the offshore islands which have always been Chinese territory.”

Recent Restatement of the United States Position

The position of the United States was set forth by the States Department in connection with the 1970 Hearings before the Subcommittee on the United States Security Agreements and Commitments Abroad of the Senate Committee on Foreign Relations (91st Cong., 2d Sess.):

“Legal Status of Taiwan as Defined in Japanese Peace Treaty and Sino-Japanese Peace Treaty

“Article 2 of the Japanese Peace treaty, signed on September 8, 1951 at San Francisco, provides that ‘Japan renounces all right, title and claim to Formosa and the Pescadores’. The same language was used in Article 2 of the Treaty of Peace between China and Japan signed on April 28, 1952. In neither treaty did Japan cede this area to any particular entity. As Taiwan and the Pescadores are not covered by any existing international disposition, sovereignty over the area is an unsettled question subject to future international resolution. Both the Republic of China and the Chinese Communists disagree with this conclusion and consider that Taiwan and the Pescadores are part of the sovereign state of China. The United States recognized the Government of the Republic of Taiwan as legitimately occupying and exercising jurisdiction over Taiwan and the Pescadores.”

The future relationship of Taiwan to mainland China and the resolution of disputes dividing the governments in Taipei and Peking involve issues that the United States cannot resolve. We have made clear that our primary concern is that these issues should be resolved by peaceful means, without resort to the use of force. Until such a resolution is achieved we may continue to deal respectively with the government of the People’s Republic of China and the Government of the Republic of China on matters affecting mutual interests, accepting the practical situation as we

find it.

UN Resolution 2758

United Nations
General Assembly—Twenty-sixth Session

2758 (XXVI). Restoration of the lawful rights of the People's Republic of China in the United Nations

The General Assembly,

Recalling the principles of the Charter of the United Nations,

Considering the restoration of the lawful rights of the People's Republic of China is essential both for the protection of the Charter of the United Nations and for the cause that the United Nations must serve under the Charter,

Recognizing that the representatives of the Government of the People's Republic of China are the only lawful representatives of China to the United Nations and that the People's Republic of China is one of the five permanent members of the Security Council,

Decides to restore all its rights to the People's Republic of China and to recognize the representatives of its Government as the only legitimate representatives of China to the United Nations, and to expel forthwith the representatives of Chiang Kai-shek from the place which they unlawfully occupy at the United Nations and in all the organizations related to it.

1976th plenary meeting,

25 October 1971.

聯合國決議 2758 號

大會第二十六屆會

二七五八（二十六）·恢復中華人民共和國在聯合國的合法權利

大會，

回顧聯合國憲章的原則，

考慮到，恢復中華人民共和國的合法權利對於維護聯合國憲章和聯合國組織根據憲章所必須從事的事業都是必不可少的，

承認中華人民共和國政府的代表是中國在聯合國組織的唯一合法代表，中華人民共和國是安全理事會五個常任理事國之一，

決定：恢復中華人民共和國的一切權利，承認她的政府的代表為中國在聯合國組織的唯一合法代表並立即把蔣介石的代表從它在聯合國組織及其所屬一切機構中所非法佔據的席位上驅逐出去。

一九七一年十月二十五日，

第一九七六次全體會議。

Shanghai Communiqué

1. President Richard Nixon of the United States of America visited the People's Republic of China at the invitation of Premier Chou En-lai of the People's Republic of China from February 21 to February 28, 1972. Accompanying the President were Mrs. Nixon, U.S. Secretary of State William Rogers, Assistant to the President Dr. Henry Kissinger, and other American officials.

2. President Nixon met with Chairman Mao Tsetung of the Communist Party of China on February 21. The two leaders had a serious and frank exchange of views on Sino-U.S. relations and world affairs.

3. During the visit, extensive, earnest and frank discussions were held between President Nixon and Premier Chou En-lai on the normalization of relations between the United States of America and the People's Republic of China, as well as on other matters of interest to both sides. In addition, Secretary of State William Rogers and Foreign Minister Chi Peng-fei held talks in the same spirit.

4. President Nixon and his party visited Peking and viewed cultural, industrial and agricultural sites, and they also toured Hangchow and Shanghai where, continuing discussions with Chinese leaders, they viewed similar places of interest.

5. The leaders of the People's Republic of China and the United States of America found it beneficial to have this opportunity, after so many years without contact, to present candidly to one another their views on a variety of issues. They reviewed the international situation in which important changes and great upheavals are taking place and expounded their respective positions and attitudes.

6. The Chinese side stated: Wherever there is oppression, there is resistance. Countries want independence, nations want liberation and the people want revolution--this has become the irresistible trend of history. All nations, big or small, should be equal: big nations should not bully the small and strong nations should not bully the weak. China will never be a superpower and it opposes hegemony and power politics of any kind. The Chinese side stated that it firmly supports the struggles of all the oppressed people and nations for freedom and liberation and that the people of all countries have the right to choose their social systems according their own wishes and the right to safeguard the independence, sovereignty and territorial integrity of their own countries and oppose foreign aggression, interference, control and subversion. All foreign troops should be withdrawn to their own countries. The Chinese side expressed its firm support to the peoples of Viet Nam, Laos and Cambodia in their efforts for the attainment of their goal and its firm support to the seven-point proposal of the Provisional Revolutionary Government of the Republic of South Viet Nam and the elaboration of February this year on the two key problems in the proposal, and to the Joint Declaration of the Summit Conference of the Indochinese Peoples. It firmly supports the eight-point program for the peaceful unification of Korea put forward by the Government of the Democratic People's Republic of Korea on April 12, 1971, and the stand for the abolition of the "U.N. Commission for the Unification and Rehabilitation of Korea". It firmly opposes the revival and outward expansion of Japanese militarism and firmly supports the Japanese people's desire to build an independent, democratic, peaceful and neutral Japan. It firmly maintains that India and Pakistan should, in accordance with the United Nations resolutions on the Indo-Pakistan question, immediately withdraw all their forces to their respective territories and to their own sides of the ceasefire line in Jammu and Kashmir and firmly supports the Pakistan Government and people in their struggle to preserve their independence and sovereignty and the people of Jammu and Kashmir in their struggle for the right of self-determination.

7. The U.S. side stated: Peace in Asia and peace in the world requires efforts both to reduce immediate tensions and to eliminate the basic causes of conflict. The United States will work for a just and secure peace: just, because it fulfills the aspirations of peoples and nations for freedom and progress; secure, because it removes the danger of foreign aggression. The United States supports individual freedom and social progress for all the peoples of the world, free of outside pressure or intervention. The United States believes that the effort to reduce tensions is served by improving communication between countries that have different ideologies so as to lessen the risks of confrontation through accident, miscalculation or misunderstanding. Countries should treat each other with mutual respect and be willing to compete peacefully, letting performance be the ultimate judge. No country should claim infallibility and each country should be prepared to reexamine its own attitudes for the common good. The United States stressed that the peoples of Indochina should be allowed to determine their destiny without outside intervention; its constant primary objective has been a negotiated solution; the eight-point proposal put forward by the Republic of Viet Nam and the United States on January 27, 1972 represents a basis for the attainment of that objective; in the absence of a negotiated settlement the United States envisages the ultimate withdrawal of all U.S. forces from the region consistent with the aim of self-determination for each country of Indochina. The United States will maintain its close ties with and support for the Republic of Korea; the United States will support efforts of the Republic of Korea to seek a relaxation of tension and increased communication in the Korean peninsula. The United States places the highest value on its friendly relations with Japan; it will continue to develop the existing close bonds. Consistent with the United Nations Security Council Resolution of december 21, 1971, the United States favors the continuation of the ceasefire between India and Pakistan and the withdrawal of all military forces to within their own territories and to their own sides of the ceasefire line in Jammu and Kashmir; the United States supports the right of the peoples of South Asia to shape their own future in peace, free of military threat, and

without having the area become the subject of great power rivalry.

8. There are essential differences between China and the United States in their social systems and foreign policies. However, the two sides agreed that countries, regardless of their social systems, should conduct their relations on the principles of respect for the sovereignty and territorial integrity of all states, non-aggression against other states, non-interference in the internal affairs of other states, equality and mutual benefit, and peaceful coexistence. International disputes should be settled on this basis, without resorting to the use or threat of force. The United States and the People's Republic of China are prepared to apply these principles to their mutual relations.

9. With these principles of international relations in mind the two sides stated that:

- progress toward the normalization of relations between China and the United States is in the interests of all countries;
- both wish to reduce the danger of international military conflict;
- neither should seek hegemony in the Asia-Pacific region and each is opposed to efforts by any other country or group of countries to establish such hegemony; and
- neither is prepared to negotiate on behalf of any third party or to enter into agreements or understandings with the other directed at other states.

10. Both sides are of the view that it would be against the interests of the peoples of the world for any major country to collude with another against other countries, or for major countries to divide up the world into spheres of interest.

11. The two sides reviewed the long-standing serious disputes between China and the United States. The Chinese side reaffirmed its position: the Taiwan question is the crucial question obstructing the normalization of relations between China and the United States; the Government of the People's Republic of China is the sole legal government of China; Taiwan is a province of China which has long been returned to the motherland; the liberation of Taiwan is China's internal affair in which no other country has the right to interfere; and all U.S. forces and military installations must be withdrawn from Taiwan. The Chinese Government firmly opposes any activities which aim at the creation of "one China, one Taiwan", "one China, two governments", "two Chinas", an "independent Taiwan" or advocate that "the status of Taiwan remains to be determined".

12. The U.S. side declared: The United States acknowledges that all Chinese on either side of the Taiwan Strait maintain there is but one China and that Taiwan is a part of China. The United States Government does not challenge that position. It reaffirms its interest in a peaceful settlement of the Taiwan question by the Chinese themselves. With this prospect in mind, it affirms the ultimate objective of the withdrawal of all U.S. forces and military installations from Taiwan. In the meantime, it will progressively reduce its forces and military installations on Taiwan as the tension in the area diminishes. The two sides agreed that it is desirable to broaden the understanding between the two peoples. To this end, they discussed specific areas in such fields as science, technology, culture, sports and journalism, in which people-to-people contacts and exchanges would be mutually beneficial. Each side undertakes to facilitate the further development of such contacts and exchanges.

13. Both sides view bilateral trade as another area from which mutual benefit can be derived, and agreed that economic relations based on equality and mutual benefit are in the interest of the peoples of the two countries. They agree to facilitate the progressive development of trade between their two countries.

14. The two sides agreed that they will stay in contact through various channels, including the sending of a senior U.S. representative to Peking from time to time for concrete consultations to further the normalization of relations between the two countries and continue to exchange views on issues of common interest.

15. The two sides expressed the hope that the gains achieved during this visit would open up new prospects for the relations between the two countries. They believe that the normalization of relations between the two countries is not only in the interest of the Chinese and American peoples but also contributes to the relaxation of tension in Asia and the world.

16. President Nixon, Mrs. Nixon and the American party expressed their appreciation for the gracious hospitality shown them by the Government and people of the People's Republic of China.

中華人民共和國和美利堅合眾國聯合公報（《上海公報》）

（1972年2月28日）

1. 應中華人民共和國總理周恩來的邀請，美利堅合眾國總統理查德·尼克松自一九七二年二月十一日至二月二十八日訪問了中華人民共和國。陪同總統的有尼克松夫人、美國國務卿威廉·羅杰斯、總統助理亨利·基辛格博適和其他美國官員。

2. 尼克松總統于二月二十一日會見了中國共產黨主席毛澤東。兩位領導人就中美關係和國際事務認真、坦率地交換了意見。

3. 訪問中，尼克松總統和周恩來總理就美利堅合眾國和中華人民共和國關係正常化以及雙方關心的其他問題進行了廣泛、認真和坦率的討論。此外，國務卿威廉·羅杰斯和外交部長姬鵬飛也以同樣精神進行了會談。

4. 尼克松總統及其一行訪問了北京，參觀了文化、工業和農業項目，還訪問了杭州和上海，在那裡繼續同中國領導人進行討論，並參觀了類似的項目。

5. 中華人民共和國和美利堅合眾國領導人經過這麼多年一直沒有接觸之後，現在有機會坦率地互相介紹彼此對各種問題的觀點，對此，雙方認為是有益的。他們回顧了經歷著重大變化和巨大動盪的國際形勢，闡明了各自的立場和態度。

6. 中國方面聲明：那裡有壓迫，那裡就有反抗。國家要獨立，民族要解放，人民要革命，已成為不可抗拒的歷史潮流。國家不分大小，應該一律平等，大國不應欺負小國，強國不應欺負弱國。中國決不做超級大國，並且反對任何霸權主權和強權政治。中國方面表示：堅決支持一切被壓迫人民和被壓迫民族除爭取自由、解放的鬥爭，各國人民有權按照自己的意願，選擇本國的社會制度，有權維護本國獨立、主權和領土完整，反對外來侵略、干涉、控制和顛覆。一切外國軍隊都應撤回本國去。中國方面表示：堅決支持越南、查莫、柬埔寨三國人民為實現自己的目標所作的努力，堅決支持越南南方共和臨時革命政府的七點建議以及在今年二月對其中兩個關鍵問題的說明和印度支那人民最高級會議聯合聲明；堅決支持朝鮮民主主義人民共和國政府一九七一年四月十二日提出的朝鮮和平統一的八點方案和取消“聯合國韓國統一復興委員會”的主張；堅決反對日本軍國主義的復活和對外擴張，堅決支持日本人民要求建立一個獨立、民主、和平中立的日本的願望；堅決主張印度和巴基斯坦按照聯合國關於印巴問題的決議，立即把自己的軍隊全部撤回到本國境內以及查莫和克什米爾停火線的各自一方，堅決支持巴基斯坦政府和人民維護獨立、主權的鬥爭以及查莫和克什米爾人民爭取自決權的鬥爭。

7. 美國方面聲明：為了亞洲和世界的和平，需要對緩和當前的緊張局勢和消除衝突的基本原因作出努力。美國將致力於建立公正而穩定的和平。這種和平是公正的，因為它滿足各國人民和各國爭取自由和進步的願望。這種和平是穩定的，因為它消除外來侵略的危險。美國支持全世界各國人民在沒有外來壓力和干預的情況下取得個人自由和社會進步。美國相信，改善具有不同意勢形態的國與國之間的聯繫，以便減少由於事故、錯誤估計或誤會而引起的對峙的危險，有助於緩和緊張局勢的努力。各國應該互相尊重並願進行和平競賽，讓行動作出最後判斷。任何國家都不應自稱一慣正確，各國都要準備為了共同的利益重新檢查自己的態度。美國強調：應該允許印度支那各國人民在不受外來干涉的情況下決定自己的命運；美國一慣的首要目標是談判解決。越南共和國和美國在一九七二年一月二十七日提出的八點建議提供了實現這個目標的基礎；在談判得不到解決時，美國預計在符合印度支那每個國家自決這一目標的情況下以這個地區最終撤出所有美國軍隊。美國將保持其與大韓民國的密切聯繫和對它的支持；美國將支持大韓民國為謀求在朝鮮半島緩和緊張局勢和增加聯繫的努力。美國最高度地珍視同日本的友好關係，並將繼續發展現存的緊密紐帶。按照一九七一年十二月廿一日聯合國安全理事會的決議，美國贊成印度和巴基斯坦之間的停火繼續下去，並把全部軍事力量撤至本國境內以及查莫和克什米爾停火線的各自一方；美國支持南亞各國人民和平地、不受軍事威脅地建設自己的未來的權力，而不使這個地區成為大國競爭的目標。

8. 中美兩國的社會制度和對外政策有著本質的區別。但是，雙方同意，各國不論社會制度如何，都應根據尊重各國主權和領土完整、不侵犯別國、不干涉別國內政、平等互利、和平共處的原則來處理國與國之間的關係。國際爭端因在此基礎上予以解決，而不訴諸武力和武力威脅。美國和中華人民共和國準備在它們的相互關係中實行這些原則。

9. 考慮到國際關係的上述這些原則，雙方聲明：

- 中美兩國關係走向正常化是符合所有國家的利益的；
- 雙方都希望減少國際軍事衝突的危險；
- 任何一方都不應該在亞洲 - 太平洋地區謀求霸權，每一方都反對任何其他國家或國家集團建立這種霸權的努力；
- 任何一方都不準備代表任何第三方進行談判，也不準備同對方達成針對其他國家的協定或諒解。

10. 雙方都認為，任何大國與另一大國進行勾結反對其他國家，或者大國在世界上劃分利益範圍，那都是違背世界各國人民利益的。

11. 雙方回顧了中美兩國之間長期存在的嚴重爭端。中國方面重申自己的立場；台灣問題是阻礙中美兩國關係正常化的關鍵問題；中華人民共和國政府是中國的唯一合法政府；台灣是中國的一個省，早已歸還祖國；解放台灣是中國內政，別國無權干涉；全部美國武裝力量和軍事設施必須從台灣撤走。中國政府堅決反對任何旨在製造“一中一台”，“一個中國、兩個政府”、“兩個中國”、“台灣獨立”和鼓吹“台灣地位未定”的活動。

12. 美國方面聲明：美國認識到，在台灣海峽兩邊的所有中國人都認為只有一個中國，台灣是中國的一部份。美國政府對這一立場不提出異議。它重申它對由中國人自己和平解決台灣問題的關心。考慮到這一前景，它確認從台灣撤出全部美國武裝力量和軍事設施的最終目標。在此期間，它將隨著這個地區緊張局勢的緩和逐步減少它在台灣的武裝力量和軍事設施。雙方同意，擴大兩國人民之間的瞭解是可取的。為此目的，它們就科學、技術、文化、體育和新聞等方面的具體領域進行了討論。在這些領域中進行人民之間的聯繫和交流將會是互相有利的。雙方各自承諾對進一步發展這種聯繫和交流提供便利。

13. 雙方把雙邊貿易看作是另一個可以帶來互利的領域，並一致認為平等互利的經濟關係是符合兩國人民的利益的。它們同意為逐步發展兩國間的貿易提供便利。

14. 雙方同意，它們將通過不同渠道保持接觸，包括不定期地派遣美國高級代表前來北京，就促進兩國關係正常化進行具體磋商並繼續就共同關心的問題交換意見。

15. 雙方希望，這次訪問的成果將為兩國關係開闢新的前景。雙方相信，兩國關係正常化不僅符合中美兩國人民的利益，而且會對緩和亞洲及世界緊張局勢作出貢獻。

16. 尼克松總統、尼克松夫人及美方一行對中華人民共和國政府和人民給予他們有禮貌的款待，表示感謝。

Joint Communiqué of the Government of Japan and the Government of the PRC

September 29, 1972

Prime Minister Kakuei Tanaka of Japan visited the People's Republic of China at the invitation of Premier of the State Council Chou En-lai of the People's Republic of China from September 25 to September 30, 1972. Accompanying Prime Minister Tanaka were Minister for Foreign Affairs Masayoshi Ohira, Chief Cabinet Secretary Susumu Nikaido and other government officials.

Chairman Mao Tse-tung met Prime Minister Kakuei Tanaka on September 27. They had an earnest and friendly conversation.

Prime Minister Tanaka and Minister for Foreign Affairs Ohira had an earnest and frank exchange of views with Premier Chou En-lai and Minister for Foreign Affairs Chi Peng-fei in a friendly atmosphere throughout on the question of the normalization of relations between Japan and China and other problems between the two countries as well as on other matters of interest to both sides, and agreed to issue the following Joint Communiqué of the two Governments:

Japan and China are neighbouring countries, separated only by a strip of water with a long history of traditional friendship. The peoples of the two countries earnestly desire to put an end to the abnormal state of affairs that has hitherto existed between the two countries. The realization of the aspiration of the two peoples for the termination of the state of war and the normalization of relations between Japan and China will add a new page to the annals of relations between the two countries.

The Japanese side is keenly conscious of the responsibility for the serious damage that Japan caused in the past to the Chinese people through war, and deeply reproaches itself. Further, the Japanese side reaffirms its position that it intends to realize the normalization of relations between the two countries from the stand of fully understanding “the three principles for the restoration of relations” put forward by the Government of the People's Republic of China. The Chinese side expresses its welcome for this.

In spite of the differences in their social systems existing between the two countries, the two countries should, and can, establish relations of peace and friendship. The normalization of relations and development of good-neighborly and friendly relations between the two countries are in the interests of the two peoples and will contribute to the relaxation of tension in Asia and peace in the world.

1. The abnormal state of affairs that has hitherto existed between Japan and the People's Republic of China is terminated on the date on which this Joint Communique is issued.

2. The Government of Japan recognizes that Government of the People's Republic of China as the sole legal Government of China.

3. The Government of the People's Republic of China reiterates that Taiwan is an inalienable part of the territory of the People's Republic of China. The Government of Japan fully understands and respects this stand of the Government of the People's Republic of China, and it firmly maintains its stand under Article 8 of the Potsdam Proclamation.

4. The Government of Japan and the Government of People's Republic of China have decided to establish diplomatic relations as from September 29, 1972. The two Governments have decided to take all necessary measures for the establishment and the performance of the functions of each other's embassy in their respective capitals in accordance with international law and practice, and to exchange ambassadors as speedily as possible.

5. The Government of the People's Republic of China declares that in the interest of the friendship between the Chinese and the Japanese peoples, it renounces its demand for war reparation from Japan.

6. The Government of Japan and the Government of the People's Republic of China agree to establish relations of perpetual peace and friendship between the two countries on the basis of the principles of mutual respect for sovereignty and territorial integrity, mutual non-aggression, non-interference in each other's internal affairs, equality and mutual benefit and peaceful co-existence.

The two Governments confirm that, in conformity with the foregoing principles and the principles of the Charter of the United Nations, Japan and China shall in their mutual relations settle all disputes by peaceful means and shall refrain from the use or threat of force.

7. The normalization of relations between Japan and China is not directed against any third country. Neither of the two countries should seek hegemony in the Asia-Pacific region and each is opposed to efforts by any other country or group of countries to establish such hegemony.

8. The Government of Japan and the Government of the People's Republic of China have agreed that, with a view to solidifying and developing the relations of peace and friendship between the two countries, the two Governments will enter into negotiations for the purpose of concluding a treaty of peace and friendship.

9. The Government of Japan and the Government of the People's Republic of China have agreed that, with a view to further promoting relations between the two countries and to expanding interchanges of people, the two Governments will, as necessary and taking account of the existing non-governmental arrangements, enter into negotiations for the purpose of concluding agreements concerning such matters as trade, shipping, aviation, and fisheries.

Done at Peking, September 29, 1972

Prime Minister of Japan, **Tanaka Kakuei**

Minister for Foreign Affairs of Japan, **Ohira Masayoshi**

Premier of the State Council of the People's Republic of China, **Zhou Enlai**

Minister for Foreign Affairs of the People's Republic of China, **Ji Pengfei**

中華人民共和國政府和日本國政府聯合聲明(中日聯合聲明)

(1972年9月29日)

日本國內閣總理大臣田中角榮應中華人民共和國國務院總理周恩來的邀請，於一九七二年九月二十五日至九月三十日訪問了中華人民共和國。陪同田中角榮總理大臣的有大平正芳外務大臣、二階堂進內閣官房長官以及其他政府官員。

毛澤東主席於九月二十七日會見了田中角榮總理大臣。雙方進行了認真、友好的談話。周恩來總理、姬鵬飛外交部長和田中角榮總理大臣、大平正芳外務大臣，始終在友好氣氛中，以中日兩國邦交正常化問題為中心，就兩國間的各項問題，以及雙方關心的其他問題，認真、坦率地交換了意見，同意發表兩國政府的下述聯合聲明：

中日兩國是一衣帶水的鄰邦，有著悠久的傳統友好的歷史。兩國人民切望結束迄今存在於兩國間的不正常狀態。戰爭狀態的結束，中日邦交的正常化，兩國人民這種願望的實現，將揭開兩國關係史上新的一頁。

日本方面痛感日本國過去由於戰爭給中國人民造成的重大損害的責任，表示深刻的反省。日本方面重申站在充分理解中華人民共和國政府提出的“複交三原則”的立場上，謀求實現日中邦交正常化這一見解。中國方面對此表示歡迎。

中日兩國儘管社會制度不同，應該而且可以建立和平友好關係。兩國邦交正常化，發展兩國的睦鄰友好關係，是符合兩國人民利益的，也是對緩和亞洲緊張局勢和維護世界和平的貢獻。

- (一) 自本聲明公佈之日起，中華人民共和國和日本國之間迄今為止的不正常狀態宣告結束。
- (二) 日本國政府承認中華人民共和國政府是中國的唯一合法政府。
- (三) 中華人民共和國政府重申：臺灣是中華人民共和國領土不可分割的一部分。日本國政府充分理解和尊重中國政府的這一立場，並堅持遵循波茨坦公告第八條的立場。
- (四) 中華人民共和國政府和日本國政府決定自一九七二年九月二十九日起建立外交關係。兩國政府決定，按照國際法和國際慣例，在各自的首都為對方大使館的建立和履行職務採取一切必要的措施，並儘快互換大使。
- (五) 中華人民共和國政府宣佈：為了中日兩國人民的友好，放棄對日本國的戰爭賠償要求。
- (六) 中華人民共和國政府和日本國政府同意在互相尊重主權和領土完整、互不侵犯、互不干涉內政、平等互利、和平共處各項原則的基礎上，建立兩國間持久的和平友好關係。根據上述原則和聯合國憲章的原則，兩國政府確認，在相互關係中，用和平手段解決一切爭端，而不訴諸武力和武力威脅。
- (七) 中日邦交正常化，不是針對第三國的。兩國任何一方都不應在亞洲和太平洋地區謀求霸權，每一方都反對任何其他國家或集團建立這種霸權的努力。
- (八) 中華人民共和國政府和日本國政府為了鞏固和發展兩國間的和平友好關係，同意進行以締結和平友好條約為目的的談判。
- (九) 中華人民共和國政府和日本國政府為進一步發展兩國間的關係和擴大人員往來，根據需要並考慮到已有的民間協定，同意進行以締結貿易、航海、航空、漁業等協定為目的的談判。

中華人民共和國國務院總理 周恩來 (簽字) 日本國內閣總理大臣 田中角榮 (簽字)
中華人民共和國外交部長 姬鵬飛 (簽字) 日本國外務大臣 大平正芳 (簽字)

一九七二年九月二十九日於北京

■ Editor's note =====

In Japanese, the “Joint Communiqué of the Government of Japan and the Government of the PRC” is called as follows: *Nippon koku seifuto Chugoku jinmin kyōwakoku seifuno kyōdō seimei* 日本国政府と中華人民共和国政府の共同声明.

Treaty of Peace and Friendship between Japan and the PRC

Japan and the People's Republic of China,

Recalling with satisfaction that since the Government of Japan and the Government of the People's Republic of China issued a Joint Communiqué in Peking on September 29, 1972, the friendly relations between the two Governments and the peoples of the two countries have developed greatly on a new basis.

Confirming that the above-mentioned Joint Communiqué constitutes the basis of the relations of peace and friendship between the two countries and that the principles enunciated in the Joint Communiqué should be strictly observed.

Confirming that the principles of the Charter of the United Nations should be fully respected.

Hoping to contribute to peace and stability in Asia and in the world.

For the purpose of solidifying and developing the relations of peace and friendship between the two countries.

Have resolved to conclude a Treaty of Peace and Friendship and for that purpose have appointed as their Plenipotentiaries:

- Japan: Minister for Foreign Affairs Sunao Sonoda
- People's Republic of China: Minister of Foreign Affairs Huang Hua

Who, having communicated to each other their full powers, found to be in good and due form, have agreed as follows:

Article 1

1. The Contracting Parties shall develop relations of perpetual peace and friendship between the two countries on the basis of the principles of mutual respect for sovereignty and territorial integrity, mutual non-aggression, non-interference in each other's internal affairs, equality and mutual benefit and peaceful co-existence.
2. The Contracting Parties confirm that, in conformity with the foregoing principles and the principles of the Charter of the United Nations, they shall in their mutual relations settle all disputes by peaceful means and shall refrain from the use or threat of force.

Article 2

The Contracting Parties declare that neither of them should seek hegemony in the Asia-Pacific region or in any other region and that each is opposed to efforts by any other country or group of countries to establish such hegemony.

Article 3

The Contracting parties shall, in the good-neighborly and friendly spirit and in conformity with the principles of equality and mutual benefit and non-interference in each other's internal affairs, endeavor to further develop economic and cultural relations between the two countries and to promote exchanges between the peoples of the two countries.

Article 4

The present Treaty shall not affect the position of either Contracting Party regarding its relations with third countries.

Article 5

1. The present Treaty shall be ratified and shall enter into force on the date of the exchange of instruments of ratification which shall take place at Tokyo. The present Treaty shall remain in force for ten years and thereafter shall continue to be in force until terminated in accordance with the provisions of paragraph 2.
2. Either Contracting Party may, by giving one year's written notice to the other Contracting Party, terminate the present Treaty at the end of the initial ten-year period or at any time thereafter.

IN WITNESS WHEREOF, the respective Plenipotentiaries have signed the present Treaty and have affixed thereto their seals.

DONE in duplicate, in the Japanese and Chinese languages, both texts being equally authentic, at Peking, this twelfth day of August, 1978.

For the People's Republic of China: Huang Hua (signature)

For Japan: Sunao Sonoda (signature)

中華人民共和國和日本國和平友好條約 (中日和平友好條約)

(1978年8月12日)

1972年中日邦交正常化後，雙方在政治、經濟等方面的交流發展很快。在此背景下，兩國要求儘早展開和平友好條約談判的呼聲日益高漲。1975年1月，中日兩國進行了預備性談判，並達成兩點共識。但是，由於雙方在某些特定問題上始終無法達成一致，談判一度擱淺。

隨著國際局勢和中日兩國國內形勢的變化，締約談判出現轉機。1978年7月，中斷了兩年多的中日締約談判在北京重新舉行。經歷多輪艱苦談判後，中國外交部長黃華與日本外相園田直8月12日在北京正式簽訂《中日和平友好條約》。10月23日，中國國務院副總理鄧小平訪問日本期間，兩國互換《中日和平友好條約》批准書，條約正式生效。

中華人民共和國和日本國滿意地回顧了自一九七二年九月二十九日中華人民共和國政府和日本國政府在北京發表聯合聲明以來，兩國政府和兩國人民之間的友好關係在新的基礎上獲得很大的發展；確認上述聯合聲明是兩國間和平友好關係的基礎，聯合聲明所表明的各項原則應予嚴格遵守；確認聯合國憲章的原則應予充分尊重；希望對亞洲和世界的和平與安定作出貢獻；為了鞏固和發展兩國間的和平友好關係；決定締結和平友好條約，為此各自委派全權代表如下：

中華人民共和國委派外交部長黃華；

日本國委派外務大臣園田直。
雙方全權代表互相校閱全權證書，認為妥善後，達成協議如下：

- 第一條 一、締約雙方應在互相尊重主權和領土完整、互不侵犯、互不干涉內政、平等互利、和平共處各項原則的基礎上，發展兩國間持久的和平友好關係。
二、根據上述各項原則和聯合國憲章的原則，締約雙方確認，在相互關係中，用和平手段解決一切爭端，而不訴諸武力和武力威脅。
- 第二條 締約雙方表明：任何一方都不應在亞洲和太平洋地區或其他任何地區謀求霸權，並反對任何其他國家或國家集團建立這種霸權的努力。
- 第三條 締約雙方將本著睦鄰友好的精神，按照平等互利和互不干涉內政的原則，為進一步發展兩國之間的經濟關係和文化關係，促進兩國人民的往來而努力。
- 第四條 本條約不影響締約各方同第三國關係的立場。
- 第五條 一、本條約須經批准，自在東京交換批准書之日起生效。本條約有效期為十年。十年以後，在根據本條第二款的規定宣佈終止以前，將繼續有效。
二、締約任何一方在最初十年期滿時或在其後的任何時候，可以在一年以前，以書面預先通知締約另一方，終止本條約。

雙方全權代表在本條約上簽字蓋章，以昭信守。
本條約於一九七八年八月十二日在北京簽訂，共兩份，每份都用中文和日文寫成，兩種文本具有同等效力。

中華人民共和國全權代表 黃華（簽字）

日本國全權代表 園田直（簽字）

■ Editor's note =====

In Japanese, the “Treaty of Peace and Friendship between Japan and the PRC” is called as follows: *Nippon kokuto Chūgoku jimmīn kyōwakoku tonō aidano heima yūko jōyaku* 日本国と中華人民共和国との間の平和友好条約.

Joint Communiqué of the US and the PRC (Normalization Communiqué)

January 1, 1979

(The communiqué was released on December 15, 1978, in Washington and Beijing.)

1. The United States of America and the People's Republic of China have agreed to recognize each other and to establish diplomatic relations as of January 1, 1979.
2. The United States of America recognizes the Government of the People's Republic of China as the sole legal Government of China. Within this context, the people of the United States will maintain cultural, commercial, and other unofficial relations with the people of Taiwan.
3. The United States of America and the People's Republic of China reaffirm the principles agreed on by the two sides in the Shanghai Communiqué and emphasize once again that:
4. Both wish to reduce the danger of international military conflict.
5. Neither should seek hegemony in the Asia-Pacific region or in any other region of the world and each is opposed to efforts by any other country or group of countries to establish such hegemony.
6. Neither is prepared to negotiate on behalf of any third party or to enter into agreements or understandings with the other directed at other states.
7. The Government of the United States of America acknowledges the Chinese position that there is but one China and Taiwan is part of China.
8. Both believe that normalization of Sino-American relations is not only in the interest of the Chinese and American peoples but also contributes to the cause of peace in Asia and the world.

The United States of America and the People's Republic of China will exchange Ambassadors and establish Embassies on March 1, 1979.

美國——中華人民共和國建立外交關係的聯合公報（關係正常化公報）

一九七九年一月一日

1. 中華人民共和國和美利堅合眾國商定自一九七九年一月一日起互相承認並建立外交關係。
2. 美利堅合眾國承認中華人民共和國政府是中國的唯一合法政府。在此範圍內，美國人民將同台灣人民保持文化、商務和其他非官方關係。
3. 中華人民共和國和美利堅合眾國重申上海公報中雙方一致同意的各項原則，並再次強調。
4. 雙方都希望減少國際軍事衝突的危險。
5. 任何一方都不應該在亞洲-太平洋地區以及世界上任何地區謀求霸權，每一方都反對任何其他國家或國家集團建立這種霸權的努力。
6. 任何一方都不準備代表任何第三方進行談判，也不準備同對方達成針對其他國家的協議或諒解。
7. 美利堅合眾國政府承認中國的立場，即只有一個中國，台灣是中國的一部份。
8. 雙方認為，中美關係正常化不僅符合中國人民和美國人民的利益，而且有助於亞洲和世界的和平事實。

中華人民共和國和美利堅合眾國將於一九七九年三月一日互派大使並建立大使館。

Message to Compatriots in Taiwan

January 1, 1979

(The Standing Committee of the Fifth National People's Congress at its Fifth Plenary Session on December 26, 1978 adopted after discussion a message to compatriots in Taiwan.)

Dear Compatriots in Taiwan:

Today is New Year's Day 1979. We hereby extend our cordial and sincere greetings to you on behalf of the people of all nationalities on the mainland of our motherland.

As an old saying goes, "When festival times come round people think all the more of their loved ones." On this happy occasion as we celebrate New Year's Day, our thoughts turn all the more to our kith and kin, our old folks, our brothers and sisters, in Taiwan. We know you have the motherland and your kinsfolk on the mainland in mind too. This mutual feeling of many years standing grows with each passing day. From the day when Taiwan was unfortunately separated from the motherland in 1949, we have not been able to communicate with or visit each other, our motherland has not been able to achieve reunification, relatives have been unable to get together, and our nation, country and people have suffered greatly as a result. All Chinese compatriots and people of Chinese descent throughout the world look forward to an early end to this regrettable state of affairs.

The Chinese nation is a great nation. It accounts for almost a quarter of the world's population and has a long history and brilliant culture, and its outstanding contributions to world civilization and human progress are universally recognized. Taiwan has been an inalienable part of China since ancient times. The Chinese nation has great vitality and cohesion. Throughout its history, foreign invasions and internal strife have failed to split our nation permanently. Taiwan's separation from the motherland for nearly 30 years has been artificial and against our national interests and aspirations, and this state of affairs must not be allowed to continue. Every Chinese, in Taiwan or on the mainland, has a compelling responsibility for the survival, growth and prosperity of the Chinese nation. The important task of reunifying our motherland, on which hinges the future of the whole nation, now lies before us all; it is an issue no one can evade or should try to. If we do not quickly set about ending this disunity so that our motherland is reunified at an early date, how can we answer our ancestors and explain to our descendants? This sentiment is shared by all. Who among the descendants of the Yellow Emperor wishes to go down in history as a traitor?

Radical changes have taken place in China's status in the world over the past 30 years. Our country's international prestige is rising constantly and its international role becomes ever more important. The people and governments of almost all countries place tremendous hopes on us in the struggle against hegemonism and in safeguarding peace and stability in Asia and the world as a whole. Every Chinese is proud to see the growing strength and prosperity of our motherland. If we can end the present disunity and join forces soon, there will be no end to our contributions to the

future of mankind. Early reunification of our motherland is not only the common desire of all the people of China, including our compatriots in Taiwan, but the common wish of all peace-loving peoples and countries the world over.

Reunification of China today is consonant with popular sentiment and the general trend of development. The world in general recognizes only one China, with the government of the People's Republic of China as its sole legal government. The recent conclusion of the China-Japan Treaty of Peace and Friendship and the normalization of relations between China and the United States show still more clearly that no one can stop this trend. The present situation in the motherland, one of stability and unity, is better than ever. The people of all nationalities on the mainland are working hard with one will for the great goal of the four modernizations. It is our fervent hope that Taiwan returns to the embrace of the motherland at an early date so that we can work together for the great cause of national development. Our state leaders have firmly declared that they will take present realities into account in accomplishing the great cause of reunifying the motherland and respect the status quo on Taiwan and the opinions of people in all walks of life there and adopt reasonable policies and measures in settling the question of reunification so as not to cause the people of Taiwan any losses. On the other hand, people in all walks of life in Taiwan have expressed their yearning for their homeland and old friends, stated their desire "to identify themselves with and rejoin their kinsmen," and raised diverse proposals which are expressions of their earnest hope for an early return to the embrace of the motherland. As all conditions now are favourable for reunification and everything is set, no one should go against the will of the nation and against the trend of history.

We place hopes on the 17 million people on Taiwan and also the Taiwan authorities. The Taiwan authorities have always taken a firm stand of one China and have been opposed to an independent Taiwan. We have this stand in common and it is the basis for our co-operation. Our position has always been that all patriots belong to one family. The responsibility for reunifying the motherland rests with each of us. We hope the Taiwan authorities will treasure national interests and make valuable contributions to the reunification of the motherland.

The Chinese government has ordered the People's Liberation Army to stop the bombardment of Jinmen (Quemoy) and other islands as from today. A state of military confrontation between the two sides still exists along the Taiwan Straits. This can only breed man-made tension. We hold that first of all this military confrontation should be ended through discussion between the government of the People's Republic of China and the Taiwan authorities so as to create the necessary prerequisites and a secure environment for the two sides to make contacts and exchanges in whatever area.

The prolonged separation has led to inadequate mutual understanding between the compatriots on the mainland and on Taiwan and various inconveniences for both sides. Since overseas Chinese residing in faraway foreign lands can return for visits and tours and hold reunions with their families, why can't compatriots living so near, on the mainland and on Taiwan, visit each other freely? We hold that there is no reason for such barriers to remain. We hope that at an early date transportation and postal services between both sides will be established to make it easier for compatriots of both sides to have direct contact, write to each other, visit relatives and friends, exchange tours and visits and carry out academic, cultural, sports and technological interchanges.

Economically speaking, Taiwan and the mainland of the motherland were originally one entity. Unfortunately, economic ties have been suspended for many years. Construction is going ahead vigorously on the motherland and it is our wish that Taiwan also grows economically more prosperous. There is every reason for us to develop trade between us, each making up what the other lacks, and carry out economic exchanges. This is mutually required and will benefit both parties without doing any harm to either.

Dear compatriots in Taiwan,

The bright future of our great motherland belongs to us and to you. The reunification of the motherland is the sacred mission history has handed to our generation. Times are moving ahead and the situation is developing. The earlier we fulfil this mission, the sooner we can jointly write an unprecedented, brilliant page in the history for our country, catch up with advanced powers and work together with them for world peace, prosperity and progress. Let us join hands and work together for this glorious goal!

告台灣同胞書

中華人民共和國全國人民代表大會告台灣同胞書

(一九七九年一月一日，第五屆全國人民代表大會常務委員會於一九七八年十二月二十六日舉行第五次會議討論通過)

親愛的台灣同胞：

今天是一九七九年元旦。我們代表祖國大陸的各族人民，向諸位同胞致以親切的問候和衷心的祝賀。

昔人有言：“每逢佳節倍思親”。在這歡度新年的時刻，我們更加想念自己的親骨肉——台灣的父老兄弟姐妹。我們知道，你們也無限懷念祖國和大陸上的親人。這種綿延了多少歲月的相互思念之情與日俱增。自從一九四九年台灣同祖國不幸分離以來，我們之間音訊不通，來往斷絕，祖國不能統一，親人無從團聚，民族、國家和人民都受到了巨大的損失。所有中國同胞以及全球華裔，無不盼望早日結束這種令人痛心的局面。

我們中華民族是偉大的民族，占世界人口近四分之一，享有悠久的歷史和優秀的文化，對世界文明和人類發展的卓越貢獻，舉世共認。台灣自古就是中國不可分割的一部分。中華民族是具有強大的生命力和凝聚力的。儘管歷史上有過多少次外族入侵和內部紛爭，都不曾使我們的民族陷於長久分裂。近三十年台灣同祖國的分離，是人為的，是違反我們民族的利益和願望的，決不能再這樣下去了。每一個中國人，不論是生活在台灣的還是生活在大陸上的，都對中華民族的生存、發展和繁榮負有不容推諉的責任。統一祖國這樣一個關係全民族前途的重大任務，現在擺在我們大家的面前，誰也不能回避，誰也不應回避。如果我們還不儘快結束目前這種分裂局面，早日實現祖國的統一，我們何以告慰于列祖列宗？何以自解於子孫後代？人同此心，心同此理，凡屬黃帝子孫，誰願成為民族的千古罪人？

近三十年來，中國在世界上的地位已發生根本變化。我國國際地位越來越高，國際作用越來越重要。各國人民和政府為了反對霸權主義、維護亞洲和世界的和平穩定，幾乎莫不對我們寄予極大期望。每一個中國人都為祖國的日見強盛而感到自豪。我們如果儘快結束目前的分裂局面，把力量合到一起，則所能貢獻於人類前途者，自更不可限量。早日實現祖國統一，不僅是全中國人民包括台灣同胞的共同心願，也是全世界一切愛好和平的人民和國家的共同希望。

今天，實現中國的統一，是人心所向，大勢所趨。世界上普遍承認只有一個中國，承認中華人民共和國政府是中國唯一合法的政府。最近中日和平友好條約的簽定，和中美兩國關係正常化的實現，更可見潮流所至，實非任何人所得而阻止。目前祖國安定團結，形勢比以往任何時候都好。在大陸上的各族人民，正在為實現四個現代化的偉大目標而同心戮力。我們殷切期望台灣早日歸回祖國，共同發展建國大業。我們的國家領導人已經表示決心，一定要考慮現實情況，完成祖國統一大業，在解決統一問題時尊重台灣現狀和台灣各界人士的意見，採取合情合理的政策和辦法，不使台灣人民蒙受損失。台灣各界人士也紛紛抒發懷鄉思舊之情，訴述“認同回歸”之願，提出種種建議，熱烈盼望早日回到祖國的懷抱。時至今日，種種條件都對統一有利，可謂萬事俱備，任何人都不應當拂逆民族的意志，違背歷史的潮流。

我們寄希望於一千七百萬台灣人民，也寄希望於台灣當局。台灣當局一貫堅持一個中國的立場，反對台灣獨立。這就是我們共同的立場，合作的基礎。我們一貫主張愛國一家。統一祖國，人人有責。希望台灣當局以民族利益為重，對實現祖國統一的事業作出寶貴的貢獻。

中國政府已經命令人民解放軍從今天起停止對金門等島嶼的炮擊。台灣海峽目前仍然存在著雙方的軍事對峙，這只能製造人為的緊張。我們認為，首先應當通過中華人民共和國政府和台灣當局之間的商談結束這種軍事對峙狀態，以便為雙方的任何一種範圍的交往接觸創造必要的前提和安全的環境。

由於長期隔絕，大陸和台灣的同胞互不瞭解，對於雙方造成各種不便。遠居海外的許多僑胞都能回國觀光，與家人團聚。為什麼近在咫尺的大陸和台灣的同胞卻不能自由來往呢？我們認為這種藩籬沒有理由繼續存在。我們希望雙方儘快實現通航通郵，以利雙方同胞直接接觸，互通訊息，探親訪友，旅遊參觀，進行學術文化體育工藝觀摩。

台灣和祖國大陸，在經濟上本來是一個整體。這些年來，經濟聯繫不幸中斷。現在，祖國的建設正在蓬勃發展，我們也希望台灣的經濟日趨繁榮。我們相互之間完全應當發展貿易，互通有無，進行經濟交流。這是相互的需要，對任何一方都有利而無害。

親愛的台灣同胞：

我們偉大祖國的美好前途，既屬於我們，也屬於你們。統一祖國，是歷史賦於我們這一代人的神聖使命。時代在前進，形勢在發展。我們早一天完成這一使命，就可以早一天共同創造我國空前未有的光輝燦爛的歷史，而與各先進強國並駕齊驅，共謀世界的和平、繁榮和進步。讓我們攜起手來，為這一光榮目標共同奮鬥！

Taiwan Relations Act

Public Law 96-8 96th Congress

An Act:

To help maintain peace, security, and stability in the Western Pacific and to promote the foreign policy of the United States by authorizing the continuation of commercial, cultural, and other relations between the people of the United States and the people on Taiwan, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1.

This Act may be cited as the “Taiwan Relations Act”.

FINDINGS AND DECLARATION OF POLICY

Section 2.

- (a) The President—having terminated governmental relations between the United States and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, the Congress finds that the enactment of this Act is necessary—
- (1) to help maintain peace, security, and stability in the Western Pacific; and
 - (2) to promote the foreign policy of the United States by authorizing the continuation of commercial, cultural, and other relations between the people of the United States and the people on Taiwan.
- (b) It is the policy of the United States—
- (1) to preserve and promote extensive, close, and friendly commercial, cultural, and other relations between the people of the United States and the people on Taiwan, as well as the people on the China mainland and all other peoples of the Western Pacific area;
 - (2) to declare that peace and stability in the area are in the political, security, and economic interests of the United States, and are matters of international concern;
 - (3) to make clear that the United States decision to establish diplomatic relations with the People’s Republic of China rests upon the expectation that the future of Taiwan will be determined by peaceful means;
 - (4) to consider any effort to determine the future of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States;
 - (5) to provide Taiwan with arms of a defensive character; and
 - (6) to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan.
- (c) Nothing contained in this Act shall contravene the interest of the United States in human rights, especially with respect to the human rights of all the approximately eighteen million inhabitants of Taiwan. The preservation and enhancement of the human rights of all the people on Taiwan are hereby reaffirmed as objectives of the United States.

IMPLEMENTATION OF UNITED STATES POLICY WITH REGARD TO TAIWAN

Section 3.

- (a) In furtherance of the policy set forth in section 2 of this Act, the United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability.
- (b) The President and the Congress shall determine the nature and quantity of such defense articles and services based solely upon their judgment of the needs of Taiwan, in accordance with procedures established by law. Such determination of Taiwan’s defense needs shall include review by United States military authorities in connection with recommendations to the President and the Congress.
- (c) The President is directed to inform the Congress promptly of any threat to the security or the social or economic system of the people on Taiwan and any danger to the interests of the United States arising therefrom. The

President and the Congress shall determine, in accordance with constitutional processes, appropriate action by the United States in response to any such danger.

APPLICATION OF LAWS; INTERNATIONAL AGREEMENTS

Section 4.

- (a) The absence of diplomatic relations or recognition shall not affect the application of the laws of the United States with respect to Taiwan, and the laws of the United States shall apply with respect to Taiwan in the manner that the laws of the United States applied with respect to Taiwan prior to January 1, 1979.
- (b) The application of subsection (a) of this section shall include, but shall not be limited to, the following:
 - (1) Whenever the laws of the United States refer or relate to foreign countries, nations, states, governments, or similar entities, such terms shall include and such laws shall apply with such respect to Taiwan.
 - (2) Whenever authorized by or pursuant to the laws of the United States to conduct or carry out programs, transactions, or other relations with respect to foreign countries, nations, states, governments, or similar entities, the President or any agency of the United States Government is authorized to conduct and carry out, in accordance with section 6 of this Act, such programs, transactions, and other relations with respect to Taiwan (including, but not limited to, the performance of services for the United States through contracts with commercial entities on Taiwan), in accordance with the applicable laws of the United States.
 - (3) (A) The absence of diplomatic relations and recognition with respect to Taiwan shall not abrogate, infringe, modify, deny, or otherwise affect in any way any rights or obligations (including but not limited to those involving contracts, debts, or property interests of any kind) under the laws of the United States heretofore or hereafter acquired by or with respect to Taiwan.
 - (B) For all purposes under the laws of the United States, including actions in any court in the United States, recognition of the People's Republic of China shall not affect in any way the ownership of or other rights or interests in properties, tangible and intangible, and other things of value, owned or held on or prior to December 31, 1978, or thereafter acquired or earned by the governing authorities on Taiwan.
 - (4) Whenever the application of the laws of the United States depends upon the law that is or was applicable on Taiwan or compliance therewith, the law applied by the people on Taiwan shall be considered the applicable law for that purpose.
 - (5) Nothing in this Act, nor the facts of the President's action in extending diplomatic recognition to the People's Republic of China, the absence of diplomatic relations between the people on Taiwan and the United States, or the lack of recognition by the United States, and attendant circumstances thereto, shall be construed in any administrative or judicial proceeding as a basis for any United States Government agency, commission, or department to make a finding of fact or determination of law, under the Atomic Energy Act of 1954 and the Nuclear Non-Proliferation Act of 1978, to deny an export license application or to revoke an existing export license for nuclear exports to Taiwan.
 - (6) For purposes of the Immigration and Nationality Act, Taiwan may be treated in the manner specified in the first sentence of section 202(b) of that Act.
 - (7) The capacity of Taiwan to sue and be sued in courts in the United States, in accordance with the laws of the United States, shall not be abrogated, infringed, modified, denied, or otherwise affected in any way by the absence of diplomatic relations or recognition.
 - (8) No requirement, whether expressed or implied, under the laws of the United States with respect to maintenance of diplomatic relations or recognition shall be applicable with respect to Taiwan.
- (c) For all purposes, including actions in any court in the United States, the Congress approves the continuation in force of all treaties and other international agreements, including multilateral conventions, entered into by the United States and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, and in force between them on December 31, 1978, unless and until terminated in accordance with law.
- (d) Nothing in this Act may be construed as a basis for supporting the exclusion or expulsion of Taiwan from continued membership in any international financial institution or any other international organization.

OVERSEAS PRIVATE INVESTMENT CORPORATION

Section 5.

- (a) During the three-year period beginning on the date of enactment of this Act, the \$1,000 per capita income restriction in insurance, clause (2) of the second undesignated paragraph of section 231 of the reinsurance,

Foreign Assistance Act of 1961 shall not restrict the activities of the Overseas Private Investment Corporation in determining whether to provide any insurance, reinsurance, loans, or guaranties with respect to investment projects on Taiwan.

- (b) Except as provided in subsection (a) of this section, in issuing insurance, reinsurance, loans, or guaranties with respect to investment projects on Taiwan, the Overseas Private Insurance Corporation shall apply the same criteria as those applicable in other parts of the world.

THE AMERICAN INSTITUTE OF TAIWAN

Section 6.

- (a) Programs, transactions, and other relations conducted or carried out by the President or any agency of the United States Government with respect to Taiwan shall, in the manner and to the extent directed by the President, be conducted and carried out by or through—
 - (1) The American Institute in Taiwan, a nonprofit corporation incorporated under the laws of the District of Columbia, or
 - (2) such comparable successor nongovernmental entity as the President may designate, (hereafter in this Act referred to as the “Institute”).
- (b) Whenever the President or any agency of the United States Government is authorized or required by or pursuant to the laws of the United States to enter into, perform, enforce, or have in force an agreement or transaction relative to Taiwan, such agreement or transaction shall be entered into, performed, and enforced, in the manner and to the extent directed by the President, by or through the Institute.
- (c) To the extent that any law, rule, regulation, or ordinance of the District of Columbia, or of any State or political subdivision thereof in which the Institute is incorporated or doing business, impedes or otherwise interferes with the performance of the functions of the Institute pursuant to this Act; such law, rule, regulation, or ordinance shall be deemed to be preempted by this Act.

SERVICES BY THE INSTITUTE TO UNITED STATES CITIZENS ON TAIWAN

Section 7.

- (a) The Institute may authorize any of its employees on Taiwan--
 - (1) to administer to or take from any person an oath, affirmation, affidavit, or deposition, and to perform any notarial act which any notary public is required or authorized by law to perform within the United States;
 - (2) To act as provisional conservator of the personal estates of deceased United States citizens; and
 - (3) to assist and protect the interests of United States persons by performing other acts such as are authorized to be performed outside the United States for consular purposes by such laws of the United States as the President may specify.
- (b) Acts performed by authorized employees of the Institute under this section shall be valid, and of like force and effect within the United States, as if performed by any other person authorized under the laws of the United States to perform such acts.

TAX EXEMPT STATUS OF THE INSTITUTE

Section 8.

- (a) The Institute, its property, and its income are exempt from all taxation now or hereafter imposed by the United States (except to the extent that section 11(a)(3) of this Act requires the imposition of taxes imposed under chapter 21 of the Internal Revenue Code of 1954, relating to the Federal Insurance Contributions Act) or by State or local taxing authority of the United States.
 - (1) For purposes of the Internal Revenue Code of 1954, the Institute shall be treated as an organization described in sections 170(b)(1)(A), 170(c), 2055(a), 2106(a)(2)(A), 2522(a), and 2522(b).

FURNISHING PROPERTY AND SERVICES TO AND OBTAINING SERVICES FROM THE INSTITUTE

Section 9.

- (a) Any agency of the United States Government is authorized to sell, loan, or lease property (including interests therein) to, and to perform administrative and technical support functions and services for the operations of, the Institute upon such terms and conditions as the President may direct. Reimbursements to agencies under this subsection shall be credited to the current applicable appropriation of the agency concerned.

- (b) Any agency of the United States Government is authorized to acquire and accept services from the Institute upon such terms and conditions as the President may direct. Whenever the President determines it to be in furtherance of the purposes of this Act, the procurement of services by such agencies from the Institute may be effected without regard to such laws of the United States normally applicable to the acquisition of services by such agencies as the President may specify by Executive order.
- (c) Any agency of the United States Government making funds available to the Institute in accordance with this Act shall make arrangements with the Institute for the Comptroller General of the United States to have access to the; books and records of the Institute and the opportunity to audit the operations of the Institute.

TAIWAN INSTRUMENTALITY

Section 10.

- (a) Whenever the President or any agency of the United States Government is authorized or required by or pursuant to the laws of the United States to render or provide to or to receive or accept from Taiwan, any performance, communication, assurance, undertaking, or other action, such action shall, in the manner and to the extent directed by the President, be rendered or Provided to, or received or accepted from, an instrumentality established by Taiwan which the President determines has the necessary authority under the laws applied by the people on Taiwan to provide assurances and take other actions on behalf of Taiwan in accordance with this Act.
- (b) The President is requested to extend to the instrumentality established by Taiwan the same number of offices and complement of personnel as were previously operated in the United States by the governing authorities on Taiwan recognized as the Republic of China prior to January 1, 1979.
- (c) Upon the granting by Taiwan of comparable privileges and immunities with respect to the Institute and its appropriate personnel, the President is authorized to extend with respect to the Taiwan instrumentality and its appropriate; personnel, such privileges and immunities (subject to appropriate conditions and obligations) as may be necessary for the effective performance of their functions.

SEPARATION OF GOVERNMENT PERSONNEL FOR EMPLOYMENT WITH THE INSTITUTE

Section 11.

- (a) (1) Under such terms and conditions as the President may direct, any agency of the United States Government may separate from Government service for a specified period any officer or employee of that agency who accepts employment with the Institute.
- (2) An officer or employee separated by an agency under paragraph (1) of this subsection for employment with the Institute shall be entitled upon termination of such employment to reemployment or reinstatement with such agency (or a successor agency) in an appropriate position with the attendant rights, privileges, and benefits with the officer or employee would have had or acquired had he or she not been so separated, subject to such time period and other conditions as the President may prescribe.
- (3) An officer or employee entitled to reemployment or reinstatement rights under paragraph (2) of this subsection shall, while continuously employed by the Institute with no break in continuity of service, continue to participate in any benefit program in which such officer or employee was participating prior to employment by the Institute, including programs for compensation for job-related death, injury, or illness; programs for health and life insurance; programs for annual, sick, and other statutory leave; and programs for retirement under any system established by the laws of the United States; except that employment with the Institute shall be the basis for participation in such programs only to the extent that employee deductions and employer contributions, as required, in payment for such participation for the period of employment with the Institute, are currently deposited in the program's or system's fund or depository. Death or retirement of any such officer or employee during approved service with the Institute and prior to reemployment or reinstatement shall be considered a death in or retirement from Government service for purposes of any employee or survivor benefits acquired by reason of service with an agency of the United States Government.
- (4) Any officer or employee of an agency of the United States Government who entered into service with the Institute on approved leave of absence without pay prior to the enactment of this Act shall receive the benefits of this section for the period of such service.
- (b) Any agency of the United States Government employing alien personnel on Taiwan may transfer such personnel, with accrued allowances, benefits, and rights, to the Institute without a break in service for purposes of retirement and other benefits, including continued participation in any system established by the laws of the

United States for the retirement of employees in which the alien was participating prior to the transfer to the Institute, except that employment with the Institute shall be creditable for retirement purposes only to the extent that employee deductions and employer contributions.. as required, in payment for such participation for the period of employment with the Institute, are currently deposited in the system' s fund or depository.

- (c) Employees of the Institute shall not be employees of the United States and, in representing the Institute, shall be exempt from section 207 of title 18, United States Code.
 - (1) For purposes of sections 911 and 913 of the Internal Revenue Code of 1954, amounts paid by the Institute to its employees shall not be treated as earned income. Amounts received by employees of the Institute shall not be included in gross income, and shall be exempt from taxation, to the extent that they are equivalent to amounts received by civilian officers and employees of the Government of the United States as allowances and benefits which are exempt from taxation under section 912 of such Code.
 - (2) Except to the extent required by subsection (a)(3) of this section, service performed in the employ of the Institute shall not constitute employment for purposes of chapter 21 of such Code and title II of the Social Security Act.

REPORTING REQUIREMENT

Section 12.

- (a) The Secretary of State shall transmit to the Congress the text of any agreement to which the Institute is a party. However, any such agreement the immediate public disclosure of which would, in the opinion of the President, be prejudicial to the national security of the United States shall not be so transmitted to the Congress but shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives under an appropriate injunction of secrecy to be removed only upon due notice from the President.
- (b) For purposes of subsection (a), the term “agreement” includes—
 - (1) any agreement entered into between the Institute and the governing authorities on Taiwan or the instrumentality established by Taiwan; and
 - (2) any agreement entered into between the Institute and an agency of the United States Government.
- (c) Agreements and transactions made or to be made by or through the Institute shall be subject to the same congressional notification, review, and approval requirements and procedures as if such agreements and transactions were made by or through the agency of the United States Government on behalf of which the Institute is acting.
- (d) During the two-year period beginning on the effective date of this Act, the Secretary of State shall transmit to the Speaker of the House and Senate House of Representatives and the Committee on Foreign Relations of Foreign Relations the Senate, every six months, a report describing and reviewing economic relations between the United States and Taiwan, noting any interference with normal commercial relations.

RULES AND REGULATIONS

Section 13.

The President is authorized to prescribe such rules and regulations as he may deem appropriate to carry out the purposes of this Act. During the three-year period beginning on the effective date speaker of this Act, such rules and regulations shall be transmitted promptly to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate. Such action shall not, however, relieve the Institute of the responsibilities placed upon it by this Act.'

CONGRESSIONAL OVERSIGHT

Section 14.

- (a) The Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and other appropriate committees of the Congress shall monitor—
 - (1) the implementation of the provisions of this Act;
 - (2) the operation and procedures of the Institute;
 - (3) the legal and technical aspects of the continuing relationship between the United States and Taiwan; and
 - (4) the implementation of the policies of the United States concerning security and cooperation in East Asia.
- (b) Such committees shall report, as appropriate, to their respective Houses on the results of their monitoring.

DEFINITIONS

Section 15.

For purposes of this Act—

- (1) the term “laws of the United States” includes any statute, rule, regulation, ordinance, order, or judicial rule of decision of the United States or any political subdivision thereof; and
- (2) the term “Taiwan” includes, as the context may require, the islands of Taiwan and the Pescadores, the people on those islands, corporations and other entities and associations created or organized under the laws applied on those islands, and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, and any successor governing authorities (including political subdivisions, agencies, and instrumentalities thereof).

AUTHORIZATION OF APPRIATIONS

Section 16.

In addition to funds otherwise available to carry out the provisions of this Act, there are authorized to be appropriated to the Secretary of State for the fiscal year 1980 such funds as may be necessary to carry out such provisions. Such funds are authorized to remain available until expended.

SEVERABILITY OF PROVISIONS

Section 17.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to any other person or circumstance shall not be affected thereby.

EFFECTIVE DATE

Section 18.

This Act shall be effective as of January 1, 1979. Approved April 10, 1979.

台灣關係法

(本譯文僅供參考，引用請以原始英文條文為依歸)

January 1, 1979

台灣關係法

Public Law 96-8 96th Congress

An Act

本法乃為協助維持西太平洋之和平、安全與穩定，並授權繼續維持美國人民與在臺灣人民間之商業、文化及其他關係，以促進美國外交政策，並為其他目的。

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

簡稱——第一條：

本法律可稱為「臺灣關係法」

政策的判定及聲明——第二條：

(甲) 由於美國總統已終止美國和臺灣統治當局 (在 1979 年 1 月 1 日前美國承認其為中華民國) 間的政府關係，美國國會認為有必要制訂本法：

(一) 有助於維持西太平洋地區的和平、安全及穩定；

(二) 授權繼續維持美國人民及臺灣人民間的商務、文化及其他各種關係，以促進美國外交政策的推行。

(乙) 美國的政策如下：

(一) 維持及促進美國人民與臺灣之人民間廣泛、密切及友好的商務、文化及其他各種關係；並且維持及促進美國人民與中國大陸人民及其他西太平洋地區人民間的同種關係；

(二) 表明西太平洋地區的和平及安定符合美國的政治、安全及經濟利益，而且是國際關切的事務；

(三) 表明美國決定和「中華人民共和國」建立外交關係之舉，是基於臺灣的前途將以和平方式決定這一期望；

(四) 任何企圖以非和平方式來決定臺灣的前途之舉 -- 包括使用經濟抵制及禁運手段在內，將被視為對西太平洋地區和平及安定的威脅，而為美國所嚴重關切；

(五) 提供防禦性武器給臺灣人民；

(六) 維持美國的能力，以抵抗任何訴諸武力、或使用其他方式高壓手段，而危及臺灣人民安全及社會經濟制度的行動。

(丙) 本法律的任何條款不得違反美國對人權的關切，尤其是對於臺灣地區一千八百萬名居民人權的關切。茲此重申維護及促進所有臺灣人民的人權是美國的目標。

美國對臺灣政策的實行——第三條：

(甲) 為了推行本法第二條所明訂的政策，美國將使臺灣能夠獲得數量足以使其維持足夠的自衛能力的防衛物資及技術服務；

(乙) 美國總統和國會將依據他們對臺灣防衛需要的判斷，遵照法定程序，來決定提供上述防衛物資及服務的種類及數量。對臺灣防衛需要的判斷應包括美國軍事當局向總統及國會提供建議時的檢討報告。

(丙) 指示總統如遇臺灣人民的安全或社會經濟制度遭受威脅，因而危及美國利益時，應迅速通知國會。總統和國會將依憲法程序，決定美國應付上述危險所應採取的適當行動。

法律的適用和國際協定——第四條：

(甲) 缺乏外交關係或承認將不影響美國法律對臺灣的適用，美國法律將繼續對臺灣適用，就像 1979 年 1 月 1 日之前，美國法律對臺灣適用的情形一樣。

(乙) 前項所訂美國法律之適用，包括下述情形，但不限於下述情形：

(一) 當美國法律中提及外國、外國政府或類似實體、或與之有關之時，這些字樣應包括臺灣在內，而且這些法律應對臺灣適用；

(二) 依據美國法律授權規定，美國與外國、外國政府或類似實體所進行或實施各項方案、交往或其他關係，美國總統或美國政府機構獲准，依據本法第六條規定，遵照美國法律同樣與臺灣人民進行或實施上述各項方案、交往或其他關係（包括和臺灣的商業機構締約，為美國提供服務）。

(三) 1 美國對臺灣缺乏外交關係或承認，並不消除、剝奪、修改、拒絕或影響以前或此後臺灣依據美國法律所獲得的任何權利及義務（包括因契約、債務關係及財產權益而發生的權利及義務）。

2 為了各項法律目的，包括在美國法院的訴訟在內，美國承認「中華人民共和國」之舉，不應影響臺灣統治當局在 1978 年 12 月 31 日之前取得或特有的有體財產或無體財產的所有權，或其他權利和利益，也不影響臺灣當局在該日之後所取得的財產。

(四) 當適用美國法律需引據遵照臺灣現行或舊有法律，則臺灣人民所適用的法律應被引據遵照。

(五) 不論本法律任何條款，或是美國總統給予「中華人民共和國」外交承認之舉、或是臺灣人民和美國之間沒有外交關係、美國對臺灣缺乏承認、以及此等相關情勢，均不得被美國政府各部門解釋為，依照 1954 年原子能法及 1978 年防止核子擴散法，在行政或司法程序中決定事實及適用法律時，得以拒絕對臺灣的核子輸出申請，或是撤銷已核准的輸出許可證。

(六) 至於移民及國籍法方面，應根據該法 202 項(b)款規定對待臺灣。

(七) 臺灣依據美國法律在美國法院中起訴或應訴的能力，不應由於欠缺外交關係或承認，而被消除、剝奪、修改、拒絕或影響。

(八) 美國法律中有關維持外交關係或承認的規定，不論明示或默示，均不應對臺灣適用。

(丙) 為了各種目的，包括在美國法院中的訴訟在內，國會同意美國和(美國在 1979 年 1 月 1 日前承認為中華民國的)臺灣當局所締結的一切條約和國際協定(包括多國公約)，至 1978 年 12 月 31 日仍然有效者，將繼續維持效力，直至依法終止為止。

(丁) 本法律任何條款均不得被解釋為，美國贊成把臺灣排除或驅逐出任何國際金融機構或其他國際組織。

美國海外私人投資保證公司——第五條：

(甲) 當本法律生效後三年之內，1961 年援外法案 231 項第 2 段第 2 款所訂國民平均所得一千美元限制。將不限制美國海外私人投資保證公司活動，其可決定是否對美國私人在臺投資計畫提供保險、再保險、貸款或保證。

(乙) 除了本條(A)項另有規定外，美國海外私人投資保證公司在對美國私人在臺投資計畫提供保險、再保險、貸款或保證時，應適用對世界其他地區相同的標準。

美國在台協會——第六條：

(甲) 美國總統或美國政府各部門與臺灣人民進行實施的各項方案、交往或其他關係，應在總統指示的方式或範圍內，經由或透過下述機構來進行實施：

(一) 美國在台協會，這是一個依據哥倫比亞特區法律而成立的一個非營利法人：

(二) 總統所指示成立，繼承上述協會的非政府機構。(以下將簡稱「美國在台協會」為「該協會」。)

(乙) 美國總統或美國政府各部門依據法律授權或要求，與臺灣達成、進行或實施協定或交往安排時，此等協定或交往安排應依美國總統指示的方式或範圍，經由或透過該協會達成、進行或實施。

(丙) 該協會設立或執行業務所依據的哥倫比亞特區、各州或地方政治機構的法律、規章、命令，阻撓或妨礙該協會依據本法律執行業務時，此等法律、規章、命令的效力應次於本法律。

該協會對在臺美國公民所提供的服務——第七條：

(甲) 該協會得授權在臺雇員：

(一) 執行美國法律所規定授權之公證人業務，以採錄證詞，並從事公證業務：

(二) 擔任已故美國公民之遺產臨時保管人：

(三) 根據美國總統指示，依照美國法律之規定，執行領事所獲授權執行之其他業務，以協助保護美國人民的利益。

(乙) 該協會雇員獲得授權執行之行為有效力，並在美國境內具有相同效力，如同其他人獲得授權執行此種行為一樣。

該協會的免稅地位——第八條：

該協會、該協會的財產及收入，均免受美國聯邦、各州或地方稅務當局目前或嗣後一切課稅。

對該協會提供財產及服務、以及從該協會獨得之財產及服務——第九條

(甲) 美國政府各部門可依總統所指定條件，出售、借貸或租賃財產(包括財產利益)給該協會，或提供行政和技術支援和服務，供該協會執行業務。此等機構提供上述服務之報酬，應列入各機構所獲預算之內。

(乙) 美國政府各部門得依總統指示的條件，獲得該協會的服務。當總統認為，為了實施本法律的宗旨有必要時，可由總統頒佈行政命令，使政府各部門獲得上述服務，而不顧上述部門通常獲得上述服務時，所應適用的法律。

(丙) 依本法律提供經費給該協會的美國政府各部門，應和該協會達成安排，讓美國政府主計長得查閱該協會的帳冊記錄，並有機會查核該協會經費動用情形。

臺灣機構——第十條：

(甲) 美國總統或美國政府各機構依據美國法律授權或要求，向臺灣提供，或由臺灣接受任何服務、連絡、保證、承諾等事項，應在總統指定的方式及範圍內，向臺灣設立的機構提供上述事項，或由這一機構接受上述事項。此一機構乃總統確定依臺灣人民適用的法律而具有必需之權力者，可依據本法案代表臺灣提供保證及採取其他行動者。

(乙) 要求總統給予臺灣設立的機構相同數目的辦事處及規定的全體人數，這是指與1979年1月1日以前美國承認為中華民國的台灣當局在美國設立的辦事處及人員相同而言。

(丙) 根據臺灣給予美國在台協會及其適當人員的特權及豁免權，總統已獲授權給予臺灣機構及其適當人員有效履行其功能所需的此種特權及豁免權(要視適當的情況及義務而定)。

公務人員離職受雇於協會——第十一條：

(甲)(一) 依據總統可能指示的條件及情況，任何美國政府機構可在一特定時間內，使接受服務於美國在台協會的任何機構職員或雇員脫離政府職務。

(二) 任何根據上述(1)節情況離開該機構而服務於該協會的任何職員或雇員，有權在終止於協會的服務時，以適當的地位重新為原機構(或接替的機構)雇用或復職，該職員或雇員並保有如果未在總統指示的期間及其他情況下離職所應獲得的附帶權利、特權及福利。

(三) 在上述(2)項中有權重新被雇用或復職的職員或雇員，在繼續不斷為該協會服務期間，應可繼續參加未受雇於該協會之前所參加的任何福利計劃，其中包括因公殉職、負傷或患病的補償；衛生計劃及人壽保險；年度休假、病假、及其他例假計劃；美國法律下任何制度的退休安排。此種職員或雇員如果在為該協會服務期間，及重為原機構雇用或復職之前死亡或退休，應視為在公職上死亡或退休。

(四) 任何美國政府機構的職員或雇員，在本法案生效前享准保留原職而停薪情況進入該協會者，在服務期間將獲受本條之下的各項福利。

(乙) 美國政府任何機構在臺灣雇用外國人員者，可將此種人員調往該協會，要自然增加其津貼、福利及權利，並不得中斷其服務，以免影響退休及其他福利，其中包括繼續參加調往該協會前，法律規定的退休制度。

(丙) 該協會的雇用人員不是美國政府的雇用的人員，其在代表該協會時，免於受美國法典第 18 條 207 項之約束。

(丁)(一) 依據一九五四年美國國內稅法 911 及 913 項，該協會所付予雇用人員之薪水將不視為薪資所得。該協會雇用人員所獲之薪水應予免稅，其程度與美國政府的文職人員情況同。

(二) 除了前述(A)(3)所述範圍，受雇該協會所作的服務，將不構成社會安全法第二條所述之受雇目的。

有關報告之規定——第十二條：

(甲) 國務卿應將該協會為其中一造的任何協定內容全文送交國會。但是，如果總統認為立即公開透露協定內容會危及美國的國家安全，則此種協定不應送交國會，而應在適當的保密命令下，送交參院及眾院的外交委員會，僅於總統發出適當通知時才得解除機密。

(乙) 為了(A)段所述的目的，「協定」一詞包括

(一) 該協會與臺灣的治理當局或臺灣設立之機構所達成的任何協定；

(二) 該協會與美國各機構達成的任何協定。

(丙) 經由該協會所達成的協定及交易，應接受同樣的國會批准、審查、及認可，如同這些協定是經由美國各機構達成一樣，該協會是代表美國政府行事。

(丁) 在本法案生效之日起的兩年期間，國務卿應每六個月向眾院議長及參院外交委員會提出一份報告，描述及檢討與臺灣的經濟關係，尤其是對正常經濟關係的任何干預。

規則與章程——第十三條：

授權總統規定適於執行本法案各項目的的規則與章程。在本法案生效之日起三年期間，此種規則與章程應立即送交眾院議長及參院外交委員會。然而，此種規則章程不得解除本法案所賦予該協會的責任。

國會監督——第十四條：

(甲) 眾院外交委員會，參院外交委員會及國會其他適當的委員會將監督：

(一) 本法案各條款的執行；

(二) 該協會的作業及程序；

(三) 美國與臺灣繼續維持關係的法律及技術事項；

(四) 有關東亞安全及合作的美國政策的執行。

(乙) 這些委員會將適當地向參院或眾院報告監督的結果。

定義——第十五條：

為本法案的目的

(甲) 「美國法律」一詞，包括美國任何法規、規則、章程、法令、命令、美國及其政治分支機構的司法程序法；

(乙) 「臺灣」一詞將視情況需要，包括臺灣及澎湖列島，這些島上的人民、公司及根據適用於這些島嶼的法律而設立或組成的其他團體及機構，1979 年 1 月 1 日以前美國承認為中華民國的臺灣治理當局，以及任何接替的治理當局（包括政治分支機構、機構等）。

撥款之授權——第十六條：

除了執行本法案各條款另外獲得的經費外，本法案授權國務卿在 1980 會計年度撥用執行本法案所需的經費。此等經費已獲授權保留運用，直到用盡為止。

條款效力——第十七條：

如果本法案的任何條款被視為無效，或條款對任何人或任何情況的適用性無效，則本法案的其他部份，以及此種條款適用於其他個人或情況的情形，並不受影響。

生效日期——第十八條：

本法案應於 1979 年 1 月 1 日生效。

Nagoya Resolution

RESOLUTION OF THE INTERNATIONAL OLYMPIC COMMITTEE EXECUTIVE BOARD
Nagoya, 25th October 1979

The People's Republic of China:

Name: Chinese Olympic Committee

NOC anthem, flag and emblem: flag and anthem of People's Republic of China.

The emblem submitted to and approved by the Executive Board.

Constitution: In order.

Committee based in Taipei:

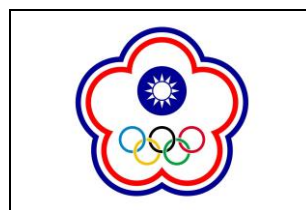
Name: Chinese Taipei Olympic Committee

NOC anthem, flag and emblem: Other than that used at present and which must be approved by the Executive Board of the IOC.

Constitution: to be amended in conformity with IOC rules by 1st January 1980.



FLAG



EMBLEM



PEOPLE'S REPUBLIC OF CHINA

CHINESE TAIPEI

Ye Jianying's "Nine-Point Policy"

Articles & Documents

Interview With Xinhua Correspondent

Chairman Ye Jianying's Elaborations on Policy Concerning Return of Taiwan To Motherland and Peaceful Unification

Ye Jianying, Chairman of the Standing Committee of the National People's Congress, in an interview with a Xinhua correspondent on September 30, 1981, elaborated on the policy concerning the return of Taiwan to the motherland for the realization of China's peaceful reunification.

The full text of his statement follows:

Today, on the eve of the 32nd anniversary of the founding of the People's Republic of China and at the approach of the 70th anniversary of the 1911 Revolution, I wish, first of all, to extend my festive greetings and cordial regards to the people of all, to extend my festive greetings and cordial regards to the people of all nationalities throughout the country, including the compatriots in Taiwan, Xianggang (Hong Kong) and Aomen (Macao), and Chinese nationals residing in foreign countries.

On New Year's Day 1979, the Standing Committee of the National People's Congress issued a message to the compatriots in Taiwan, in which it proclaimed the policy of striving to reunify the motherland peacefully. The

message received warm support and active response from the people of all nationalities throughout China, including the compatriots in Taiwan, Xianggang and Aomen, and those residing abroad. A relaxed atmosphere has set in across the Taiwan Straits. Now, I would taken this opportunity to elaborate on the policy concerning the return of Taiwan to the motherland for the realization of peaceful reunification:

(1) In order to bring an end to the unfortunate separation of the Chinese nation as early as possible, we propose that talks be held between the Communist Party of China and the Kuomintang of China on a reciprocal basis so that the two parties will co-operate for the third time to accomplish the great cause of national reunification. The two sides may first send people to meet for an exhaustive exchange of views.

(2) It is the urgent desire of the people of all nationalities on both sides of the straits to communicate with each other, reunite with their families and relatives, develop trade and increase mutual understanding. We propose that the two sides make arrangements to facilitate the exchange of mails, trade, air and shipping services, family reunions and visits by relatives and tourists as well as academic, cultural and sports exchanges, and reach an agreement there upon.

(3) After the country is reunified, Taiwan can enjoy a high degree of autonomy as a special administrative region and it can retain its armed forces. The Central Government will not interfere with local affairs on Taiwan.

(4) Taiwan's current socio-economic system will remain unchanged, so will its way of life and its economic and cultural relations with foreign countries. There will be no encroachment on the proprietary rights and lawful right of inheritance over private property, houses, land and enterprises, or on foreign investments.

(5) People in authority and representative personages of various circles in Taiwan may take up posts of leadership in national political bodies and participate in running the state.

(6) When Taiwan's local finance is in difficulty, the Central Government may subsidize it as is fit for the circumstances.

(7) For people of all nationalities and public figures of various circles in Taiwan who wish to come and settle on the mainland, it is guaranteed that proper arrangements will be made for them, that there will be no discrimination against them, and that they will have the freedom of entry and exit.

(8) Industrialists and businessmen in Taiwan are welcome to invest and engage in various economic undertakings on the mainland, and their legal rights, interests and profits are guaranteed.

(9) The reunification of the motherland is the responsibility of all Chinese. We sincerely welcome people of all nationalities, public figures of all circles and all mass organizations in Taiwan to make proposals and suggestions regarding affairs of state through various channels and in various ways.

Taiwan's return to the embrace of the motherland and the accomplishment of the great cause of national reunification is a great and glorious mission history has bequeathed on our generation. China's reunification and prosperity is in the vital interest of the Chinese people of all nationalities—not only those on the mainland, but those in Taiwan as well. It is also in the interest of peace in the Far East and the world.

We hope that our compatriots in Taiwan will give full play to their patriotism and work energetically for the early realization of the great unity of our nation and share the honor of it. We hope that our compatriots in Xianggang and Aomen and Chinese nationals residing abroad will continue to act in the role of a bridge and contribute their share to the reunification of the motherland.

We hope that the Kuomintang authorities will stick to their one-China position and their opposition to “two Chinas” and that they will put national interests above everything else, forget previous will and join hands with us in accomplishing the great cause of national reunification and the great goal of making China prosperous and strong, so as to win glory for our ancestors, being benefit to our posterity and write a new and glorious page in the history of the Chinese nation!

(Xinhua News Agency, September 30, 1981, Beijing)

Source: Beijing Review 1981, No. 40 (October 5 edition), p. 10-11; retrieved from [Taiwan Info](#)

葉劍英向新華社記者發表的談話

(1981年9月30日)

今天是中華人民共和國 32 周年國慶前夕，又欣逢辛亥革命 70 周年紀念日即將來臨之際，我首先向全國各族人民，包括臺灣同胞、港澳同胞以及國外僑胞致以節日祝賀和親切問候。

1979 年元旦，全國人民代表大會常務委員會發表《告臺灣同胞書》，宣佈了爭取和平統一祖國的大政方針，得到全中國各族人民，包括臺灣同胞、港澳同胞以及國外僑胞的熱烈擁護和積極回應。臺灣海峽出現了和緩氣氛。現在，我願趁此機會進一步闡明關於臺灣回歸祖國，實現和平統一的方針政策：

(一) 為了儘早結束中華民族陷於分裂的不幸局面，我們建議舉行中國共產黨和中國國民黨兩黨對等談判，實行第三次合作，共同完成祖國統一大業。雙方可先派人接觸，充分交換意見。

(二) 海峽兩岸各族人民迫切希望互通音訊、親人團聚、開展貿易、增進瞭解。我們建議雙方共同為通郵、通商、通航、探親、旅遊以及開展學術、文化、體育交流提供方便，達成有關協議。

(三) 國家實現統一後，臺灣可作為特別行政區，享有高度的自治權，並可保留軍隊。中央政府不干預臺灣地方事務。

(四) 臺灣現行社會、經濟制度不變，生活方式不變，同外國的經濟、文化關係不變。私人財產、房屋、土地、企業所權、合法繼承權和外國投資不受侵犯。

(五) 臺灣當局和各界代表人士，可擔全國性政治機構的領導職務，參與國家管理。

(六) 臺灣地方財政遇有困難時，可由中央政府酌情補助。

(七) 臺灣各族人民、各界人士願回祖國大陸定居者，保證妥善安排，不受歧視，來去自由。

(八) 歡迎臺灣工商界人士回祖國大陸投資，興辦各種經濟事業，保證其合法權益和利潤。

(九) 統一祖國，人人有責。我們熱誠歡迎臺灣各族人民、各界人士、民眾團體通過各種管道、採取各種方式提供建議，共商國事。

臺灣回歸祖國，完成統一大業是我們這一代人光榮、偉大的歷史使命。中國的統一和富強，不僅是祖國大陸各族人民的根本利益所在，同樣是臺灣各族同胞的根本利益所在，而且有利於遠東和世界和平。

我們希望廣大臺灣同胞，發揚愛國主義精神，積極促進全民族大團結早日實現，共用民族榮譽。希望港澳同胞、國外僑胞繼續努力，發揮橋樑作用，為統一祖國貢獻力量。

我們希望國民黨當局堅持“一個中國”、反對“兩個中國”的立場，以民族大義為重，捐棄前嫌，同我們攜起手來，共同完成統一祖國大業，實現振興中華的宏圖，為列祖列宗爭光，為子孫後代造福，在中華民族歷史上譜寫新的光輝篇章。

[中央政府門戶網站](#) 來源：新華社

■ Editor's note =====

The formal term of Ye Jianying's "Nine-Point Policy" is "Nine Principles for the Peaceful Reunification with Taiwan" (*yonguan heping tongyi Taiwan de jiumiao fangzhen zhengce* 有關和平統一臺灣的九條方針政策, abbrev. *Ye jiu tiao* 葉九條), in English it is also often referred to as "Ye's Nine Principles" or "Nine-Article Statement". On Jan. 11, 1982 Deng Xiaoping revealed to foreign guests that Ye's Nine-Point Policy actually means "one country, two systems" (*yiguo liangzhi* 一國兩制, abbrev. 1C2S) and would also apply to the issue of Hong Kong. In this context Deng on June 26, 1983 explained his "Six Conceptions for the Peaceful Reunification" (*guanyu shixian Taiwan han zuyue dalu heping tongyide liutiao gouxiang* 關於實現台灣和祖國大陸和平統一的六條構想, abbrev. *Deng liutiao* 鄧六條) which are shown further below.

The "Six Assurances" to Taiwan ROC

Note: On July 14, 1982, James Lilley, then the head of the American Institute in Taiwan, the US's nominally unofficial representative body in Taiwan, called on ROC President Chiang Ching-kuo (蔣經國). In US President Ronald Reagan's name, Lilley delivered orally—not in writing—six assurances regarding US policy toward Taiwan. Lilley explained:

The United States...

- had not agreed to set a date for ending arms sales to the Republic of China;
- had not agreed to hold prior consultations with the PRC regarding arms sales to the Republic of China;
- would not play a mediation role between the PRC and the Republic of China;
- would not revise the Taiwan Relations Act;
- had not altered its position regarding sovereignty over Taiwan; and
- would not exert pressure on the Republic of China to enter into negotiations with the PRC.

雷根總統的『六項保證』

1) 美國未同意在對我軍售上，設定結束期限；

- 2) 美方對北京要求就對我軍售事與其事先諮商事未予同意；
- 3) 美方無意扮演任何我與中國大陸間調解人的角色；
- 4) 美方將不同意修改〈台灣關係法〉；
- 5) 美方並未改變其對台灣主權的一貫立場；
- 6) 美方不會對我施加壓力與北京進行談判。

Joint Communiqué of the PRC and the US

August 17, 1982

(1) In the Joint Communiqué on the Establishment of Diplomatic Relations on January 1, 1979, issued by the Government of the People's Republic of China and the Government of the United States of America, the United States of America recognized the Government of the People's Republic of China as the sole legal Government of China, and it acknowledged the Chinese position that there is but one China and Taiwan is part of China. Within that context, the two sides agreed that the people of the United States would continue to maintain cultural, commercial, and other unofficial relations with the people of Taiwan. On this basis, relations between China and the United States were normalized.

(2) The question of United States arms sales to Taiwan was not settled in the course of negotiations between the two countries on establishing diplomatic relations. The two sides held differing positions, and the Chinese side stated that it would raise the issue again following normalization. Recognizing that this issue would seriously hamper the development of China-United States relations, they have held further discussions on it, during and since the meetings between Premier Zhao Ziyang and President Ronald Reagan and between Vice-Premier and Foreign Minister Huang Hua and Secretary of State Alexander M. Haig, Jr. in October 1981.

(3) Respect for each other's sovereignty and territorial integrity and non-interference in each other's internal affairs constitute the fundamental principles guiding China-United States relations. These principles were confirmed in the Shanghai Communiqué of February 28, 1972 and reaffirmed in the Joint Communiqué on the Establishment of Diplomatic Relations which came into effect on January 1, 1979. Both sides emphatically state that these principles continue to govern all aspects of their relations.

(4) The Chinese Government reiterates that the question of Taiwan is China's internal affair. The Message to Compatriots in Taiwan issued By China on January 1, 1979 promulgated a fundamental policy of striving for peaceful reunification of the motherland. The Nine-Point Proposal put forward by China on September 30, 1981 represented a further major effort under this fundamental policy to strive for a peaceful solution to the Taiwan question.

(5) The United States Government attaches great importance to its relations with China, and reiterates that it has no intention of infringing on Chinese sovereignty and territorial integrity, or interfering in China's internal affairs, or pursuing a policy of "two Chinas" or "one China, one Taiwan." The United States Government understands and appreciates the Chinese policy of striving for a peaceful resolution of the Taiwan question as indicated in China's Message to Compatriots in Taiwan issued on January 1, 1979 and the Nine-Point Proposal put forward by China on September 30, 1981. The new situation which has emerged with regard to the Taiwan question also provides favorable conditions for the settlement of China-United States differences over United States arms sales to Taiwan.

Having in mind the foregoing statements of both sides, the United States Government states that it does not seek to carry out a long-term policy of arms sales to Taiwan, that its arms sales to Taiwan will not exceed, either in qualitative or in quantitative terms, the level of those supplied in recent years since the establishment of diplomatic relations between China and the United States, and that it intends gradually to reduce its sale of arms to Taiwan, leading, over a period of time, to a final resolution. In so stating, the United States acknowledges China's consistent position regarding the thorough settlement of this issue.

(6) In order to bring about, over a period of time, a final settlement of the question of United States arms sales to Taiwan, which is an issue rooted in history, the two Governments will make every effort to adopt measures and create conditions conducive to the through settlement of this issue.

(7) The development of United States-China relations is not only in the interests of the two peoples but also conducive to peace and stability in the world. The two sides are determined, on the principle of equality and mutual benefit, to strengthen their ties in the economic, cultural, educational, scientific, technological and other fields and

make strong, joint efforts for the continued development of relations between the Governments and peoples of the United States and China.

(8) In order to bring about the healthy development of United States–China relations, maintain world peace and oppose aggression and expansion, the two Governments reaffirm the principles agreed on by the two sides in the Shanghai Communique and the Joint Communique on the Establishment of Diplomatic Relations. The two sides will maintain contact and hold appropriate consultations on bilateral and international issues of common interest.

中華人民共和國和美利堅合眾國聯合公報（八一七公報）

（1982年8月17日）

一、在中華人民共和國政府和美利堅合眾國政府發表的一九七九年一月一日建立外交關係的聯合公報中，美利堅合眾國承認中華人民共和國政府是中國的唯一合法政府，並承認中國的立場，即只有一個中國，臺灣是中國的一部分。在此範圍內，雙方同意，美國人民將同臺灣人民繼續保持文化、商務和其他非官方關係。在此基礎上，中美兩國關係實現了正常化。

二、美國向臺灣出售武器的問題在兩國談判建交的過程中沒有得到解決。雙方的立場不一致，中方聲明在正常化以後將再次提出這個問題。雙方認識到這一問題將會嚴重妨礙中美關係的發展，因而在趙紫陽總理與羅納德·雷根總統以及黃華副總理兼外長與亞歷山大·黑格國務卿于一九八一年十月會見時以及在此以後，雙方進一步就此進行了討論。

三、互相尊重主權和領土完整、互不干涉內政是指導中美關係的根本原則。一九七二年二月二十八日的上海公報確認了這些原則。一九七九年一月一日生效的建交公報又重申了這些原則。雙方強調聲明，這些原則仍是指導雙方關係所有方面的原則。

四、中國政府重申，臺灣問題是中國的內政。一九七九年一月一日中國發表的告臺灣同胞書宣佈了爭取和平統一祖國的大政方針。一九八一年九月三十日中國提出的九點方針是按照這一大政方針爭取和平解決臺灣問題的進一步重大努力。

五、美國政府非常重視它與中國的關係，並重申，它無意侵犯中國的主權和領土完整，無意干涉中國的內政，也無意執行“兩個中國”或“一中一台”政策。美國政府理解並欣賞一九七九年一月一日中國發表的告臺灣同胞書和一九八一年九月三十日中國提出的九點方針中所表明中國爭取和平解決臺灣問題的政策。臺灣問題上出現的新形勢也為解決中美兩國在美國售台武器問題上的分歧提供了有利的條件。

六、考慮到雙方的上述聲明，美國政府聲明，它不尋求執行一項長期向臺灣出售武器的政策，它向臺灣出售的武器在性能和數量上將不超過中美建交後近幾年供應的水平，它準備逐步減少它對臺灣的武器出售，並經過一段時間導致最後的解決。在作這樣的聲明時，美國承認中國關於徹底解決這一問題的一貫立場。

七、為了使美國售台武器這個歷史遺留的問題，經過一段時間最終得到解決，兩國政府將盡一切努力，採取措施，創造條件，以利於徹底解決這個問題。

八、中美關係的發展不僅符合兩國人民的利益，而且也有利於世界和平與穩定。雙方決心本著平等互利的原則，加強經濟、文化、教育、科技和其他方面的聯繫，為繼續發展中美兩國政府和人民之間的關係共同作出重大努力。

九、為了使中美關係健康發展和維護世界和平、反對侵略擴張，兩國政府重申上海公報和建交公報中雙方一致同意的各項原則。雙方將就共同關心的雙邊問題和國際問題保持接觸並進行適當的磋商。

UN Convention on the Law of the Sea [Article 121]

Done at Montego Bay, Jamaica, December 10, 1982

Entered into force November 16, 1994

[...]

Part VIII, Article 121 (Regime of islands)

1. An island is a naturally formed area of land, surrounded by water, which is above water at high tide.
2. Except as provided for in paragraph 3, the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of an island are determined in accordance with the provisions of this Convention applicable to other land territory.

3. Rocks which cannot sustain human habitation or economic life of their own shall have no EEZ or continental shelf.

[...]

聯合國海洋法公約

一九八二年十二月十日訂于蒙特哥灣

[...]

第八部分 島嶼制度

第一二一條

島嶼制度

1. 島嶼是四面環水並在高潮時高於水面的自然形成的陸地區域。
2. 除第 3 款另有規定外,島嶼的領海、毗連區、專屬經濟區和大陸架應按照本公約適用於其他陸地領土的規定加以確定。
3. 不能維持人類居住或其本身的經濟生活的岩礁,不應有專屬經濟區或大陸架。

[...]

Deng Xiaoping's "Six Conceptions"

Meeting with Professor Yang Liyu from Seton Hall University of the US on June 26, 1983, Deng Xiaoping elaborated the concept of "One country, two systems".

- (1) The core of the Taiwan question is the reunification has become the common aspiration of both the Communist Party and the Kuomintang and thus has constituted the ground for the third cooperation between the two parties.
- (2) While maintaining the one-China policy, the two sides can adopt different systems, but the People's Republic of China should be the sole representative of China in the international community.
- (3) Taiwan's "absolute autonomy" is not allowed. The "absolute autonomy" actually means two Chinas. There should be some restrictions on autonomy, and the bottom line is that the interest of a unified state must not be harmed.
- (4) After reunification, as a special administrative region, Taiwan can adopt systems different from those on the mainland and enjoys privileges, which other provinces and autonomous regions may not share. The region can have the powers of a legislature, judiciary and final adjudication. The region can also have its own army as long as it poses no threat to the mainland. The central government will not send officials. Affairs pertaining to Taiwan's political parties, government and army shall be managed by Taiwan itself, while the central government will reserve some positions for Taiwan.
- (5) Peaceful reunification does not mean the mainland will swallow Taiwan, or vice versa. To reunify China with the "Three People's Principles" is not practical.
- (6) The proper way for peaceful reunification is to hold negotiations between the Communist Party and the Kuomintang on an equal footing. After the two sides reach an agreement, an official announcement can be made. Foreign powers cannot be allowed to interfere with this affair, because it would otherwise mean China has not achieved independence and would only give use to endless future troubles.

鄧小平論以“一國兩制”解決台灣問題

1983年6月25日,鄧小平在會見美國西東大學教授楊力宇時,闡述了按照「一國兩制」解決台灣問題、實現國家統一的構想:

- (一) 台灣問題的核心是祖國統一。和平統一已成為國共兩黨的共同語言。我們希望國共兩黨共同完成民族統一,大家都對中華民族作出貢獻。
- (二) 我們不贊成台灣「完全自治」的提法。自治不能沒有限度,既有限度就不能「完全」。「完全自治」就是「兩個中國」,而不是一個中國。
- (三) 制度可以不同,但在國際上代表中國的,只能是中華人民共和國。

(四) 我們承認台灣地方政府在對內政策上可以搞自己的一套。台灣作為特別行政區，雖是地區政府，但同其他省、市以至自治區的地方政府不同，可以有其他省、市、自治區所沒有而為自己所獨有的某些權力，條件是不能損害統一的國家的利益。

祖國統一後，台灣特別行政區可以有自己的獨立性，可以實行同大陸不同的制度。司法獨立，終審權不須到北京。台灣還可以有自己的軍隊，只是不能構成對大陸的威脅。大陸不派人駐台，不僅軍隊不去，行政人員也不去。台灣的黨、政、軍等系統，都由台灣自己來管。中央政府還要給台灣留出名額。

(五) 和平統一不是大陸把台灣吃掉，當然也不能是台灣把大陸吃掉。所謂「三民主義統一中國」，這不現實。

(六) 要實現統一，就要有個適當方式，所以我們建議舉行兩黨平等會談，實行第三次合作，而不提中央與地方談判。雙方達成協議後，可以正式宣佈。但萬萬不可讓外國插手，那樣只能意味著中國還未獨立，後患無窮。

■ Editor's note =====

Most Chinese sources have omitted the precise numbering which in this version was derived from the website of the [PRC embassy in Japan](#) but does not exactly correspond with the numbering shown in the [official English version](#).

The Sino-British Joint Declaration on the Question of Hong Kong

JOINT DECLARATION OF THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA ON THE QUESTION OF HONG KONG

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China have reviewed with satisfaction the friendly relations existing between the two Governments and peoples in recent years and agreed that a proper negotiated settlement of the question of Hong Kong, which is left over from the past, is conducive to the maintenance of the prosperity and stability of Hong Kong and to the further strengthening and development of the relations between the two countries on a new basis. To this end, they have, after talks between the delegations of the two Governments, agreed to declare as follows:

1. The Government of the People's Republic of China declares that to recover the Hong Kong area (including Hong Kong Island, Kowloon and the New Territories, hereinafter referred to as Hong Kong) is the common aspiration of the entire Chinese people, and that it has decided to resume the exercise of sovereignty over Hong Kong with effect from 1 July 1997.
2. The Government of the United Kingdom declares that it will restore Hong Kong to the People's Republic of China with effect from 1 July 1997.
3. The Government of the People's Republic of China declares that the basic policies of the People's Republic of China regarding Hong Kong are as follows:
 - (1) Upholding national unity and territorial integrity and taking account of the history of Hong Kong and its realities, the People's Republic of China has decided to establish, in accordance with the provisions of Article 31 of the Constitution of the People's Republic of China, a Hong Kong Special Administrative Region upon resuming the exercise of sovereignty over Hong Kong.
 - (2) The Hong Kong Special Administrative Region will be directly under the authority of the Central People's Government of the People's Republic of China. The Hong Kong Special Administrative Region will enjoy a high degree of autonomy, except in foreign and defence affairs which are the responsibilities of the Central People's Government.
 - (3) The Hong Kong Special Administrative Region will be vested with executive, legislative and independent judicial power, including that of final adjudication. The laws currently in force in Hong Kong will remain basically unchanged.

- (4) The Government of the Hong Kong Special Administrative Region will be composed of local inhabitants. The chief executive will be appointed by the Central People's Government on the basis of the results of elections or consultations to be held locally. Principal officials will be nominated by the chief executive of the Hong Kong Special Administrative Region for appointment by the Central People's Government. Chinese and foreign nationals previously working in the public and police services in the government departments of Hong Kong may remain in employment. British and other foreign nationals may also be employed to serve as advisers or hold certain public posts in government departments of the Hong Kong Special Administrative Region.
- (5) The current social and economic systems in Hong Kong will remain unchanged, and so will the life-style. Rights and freedoms, including those of the person, of speech, of the press, of assembly, of association, of travel, of movement, of correspondence, of strike, of choice of occupation, of academic research and of religious belief will be ensured by law in the Hong Kong Special Administrative Region. Private property, ownership of enterprises, legitimate right of inheritance and foreign investment will be protected by law.
- (6) The Hong Kong Special Administrative Region will retain the status of a free port and a separate customs territory.
- (7) The Hong Kong Special Administrative Region will retain the status of an international financial centre, and its markets for foreign exchange, gold, securities and futures will continue. There will be free flow of capital. The Hong Kong dollar will continue to circulate and remain freely convertible.
- (8) The Hong Kong Special Administrative Region will have independent finances. The Central People's Government will not levy taxes on the Hong Kong Special Administrative Region.
- (9) The Hong Kong Special Administrative Region may establish mutually beneficial economic relations with the United Kingdom and other countries, whose economic interests in Hong Kong will be given due regard.
- (10) Using the name of "Hong Kong, China", the Hong Kong Special Administrative Region may on its own maintain and develop economic and cultural relations and conclude relevant agreements with states, regions and relevant international organisations.
The Government of the Hong Kong Special Administrative Region may on its own issue travel documents for entry into and exit from Hong Kong.
- (11) The maintenance of public order in the Hong Kong Special Administrative Region will be the responsibility of the Government of the Hong Kong Special Administrative Region.
- (12) The above-stated basic policies of the People's Republic of China regarding Hong Kong and the elaboration of them in Annex I to this Joint Declaration will be stipulated, in a Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, by the National People's Congress of the People's Republic of China, and they will remain unchanged for 50 years.
4. The Government of the United Kingdom and the Government of the People's Republic of China declare that, during the transitional period between the date of the entry into force of this Joint Declaration and 30 June 1997, the Government of the United Kingdom will be responsible for the administration of Hong Kong with the object of maintaining and preserving its economic prosperity and social stability; and that the Government of the People's Republic of China will give its co-operation in this connection.
5. The Government of the United Kingdom and the Government of the People's Republic of China declare that, in order to ensure a smooth transfer of government in 1997, and with a view to the effective implementation of this Joint Declaration, a Sino-British Joint Liaison Group will be set up when this Joint Declaration enters into force; and that it will be established and will function in accordance with the provisions of Annex II to this Joint Declaration.
6. The Government of the United Kingdom and the Government of the People's Republic of China declare that land leases in Hong Kong and other related matters will be dealt with in accordance with the provisions of Annex III to this Joint Declaration.
7. The Government of the United Kingdom and the Government of the People's Republic of China agree to implement the preceding declarations and the Annexes to this Joint Declaration.
8. This Joint Declaration is subject to ratification and shall enter into force on the date of the exchange of instruments of ratification, which shall take place in Beijing before 30 June 1985. This Joint Declaration and its Annexes shall be equally binding.

Done in duplicate at Beijing on December 19, 1984 in the English and Chinese languages, both texts being equally authentic.

For the Government of the United Kingdom
of Great Britain and Northern Ireland
Margaret Thatcher

For the Government of the People's Republic
of China
Zhao Ziyang

《中華人民共和國政府和大不列顛及北愛爾蘭聯合王國政府關於香港問題的聯合聲明》

中華人民共和國政府和大不列顛及北愛爾蘭聯合王國政府滿意地回顧了近年來兩國政府和兩國人民之間的友好關係，一致認為通過協商妥善地解決歷史上遺留下來的香港問題，有助於維持香港的繁榮與穩定，並有助於兩國關係在新的基礎上進一步鞏固和發展，為此，經過兩國政府代表團的會談，同意聲明如下：

一、中華人民共和國政府聲明：收回香港地區（包括香港島、九龍和“新界”，以下稱香港）是全中國人民的共同願望，中華人民共和國政府決定於一九九七年七月一日對香港恢復行使主權。

二、聯合王國政府聲明：聯合王國政府於一九九七年七月一日將香港交還給中華人民共和國。

三、中華人民共和國政府聲明，中華人民共和國對香港的基本方針政策如下：

- （一） 爲了維護國家的統一和領土完整，並考慮到香港的歷史和現實情況，中華人民共和國決定在對香港恢復行使主權時，根據中華人民共和國憲法第三十一條的規定，設立香港特別行政區。
- （二） 香港特別行政區直轄於中華人民共和國中央人民政府。除外交和國防事務屬中央人民政府管理外，香港特別行政區享有高度的自治權。
- （三） 香港特別行政區享有行政管理權、立法權、獨立的司法權和終審權。現行的法律基本不變。
- （四） 香港特別行政區政府由當地人組成。行政長官在當地通過選舉或協商產生，由中央人民政府任命。主要官員由香港特別行政區行政長官提名，報中央人民政府任命。原在香港各政府部門任職的中外籍公務、警務人員可以留用。香港特別行政區各政府部門可以聘請英籍人士或其他外籍人士擔任顧問或某些公職。
- （五） 香港的現行社會、經濟制度不變；生活方式不變。香港特別行政區依法保障人身、言論、出版、集會、結社、旅行、遷徙、通信、罷工、選擇職業和學術研究以及宗教信仰等各項權利和自由。私人財產、企業所有權、合法繼承權以及外來投資均受法律保護。
- （六） 香港特別行政區將保持自由港和獨立關稅地區的地位。
- （七） 香港特別行政區將保持國際金融中心的地位，繼續開放外匯、黃金、證券、期貨等市場，資金進出自由。港幣繼續流通，自由兌換。
- （八） 香港特別行政區將保持財政獨立。中央人民政府不向香港特別行政區徵稅。
- （九） 香港特別行政區可同聯合王國和其他國家建立互利的經濟關係。聯合王國和其他國家在香港的經濟利益將得到照顧。
- （十） 香港特別行政區可以“中國香港”的名義單獨地同各國、各地區及有關國際組織保持和發展經濟、文化關係，並簽訂有關協定。香港特別行政區政府可自行簽發出入香港的旅行證件。
- （十一） 香港特別行政區的社會治安由香港特別行政區政府負責維持。
- （十二） 關於中華人民共和國對香港的上述基本方針政策和本聯合聲明附件一對上述基本方針政策的具體說明，中華人民共和國全國人民代表大會將以中華人民共和國香港特別行政區基本法規定之，並在五十年內不變。

四、中華人民共和國政府和聯合王國政府聲明：自本聯合聲明生效之日起至一九九七年六月三十日止的過渡時期內，聯合王國政府負責香港的行政管理，以維護和保持香港的經濟繁榮和社會穩定；對此，中華人民共和國政府將給予合作。

五、中華人民共和國政府和聯合王國政府聲明：為求本聯合聲明得以有效執行，並保證一九九七年政權的順利交接，在本聯合聲明生效時成立中英聯合聯絡小組；聯合聯絡小組將根據本聯合聲明附件二的規定建立和履行職責。

六、中華人民共和國政府和聯合王國政府聲明：關於香港土地契約和其他有關事項，將根據本聯合聲明附件三的規定處理。

七、中華人民共和國政府和聯合王國政府同意，上述各項聲明和本聯合聲明的附件均將付諸實施。

八、本聯合聲明須經批准，並自互換批准書之日起生效。批准書應於一九八五年六月三十日前在北京互換。本聯合聲明及其附件具有同等約束力。

一九八四年十二月十九日在北京簽訂，共兩份，每份都用中文和英文寫成，兩種文本具有同等效力。

中華人民共和國政府代表

趙紫陽（簽字）

大不列顛及北愛爾蘭聯合王國政府代表

瑪格麗特·柴契爾（簽字）

Guidelines for National Unification

Adopted by the National Unification Council at its third meeting on February 23, 1991, and by the Executive Yuan Council at its 2223rd meeting on March 14, 1991.

I. Foreword

The unification of China is meant to bring about a strong and prosperous nation with a long-lasting, bright future for its people; it is the common wish of Chinese people at home and abroad. After an appropriate period of forthright exchange, cooperation and consultation conducted under the principles of reason, peace, parity, and reciprocity, the two sides of the Taiwan Straits should foster a consensus of democracy, freedom, and equal prosperity and together build anew a unified China. Based on this understanding, these Guidelines have been specially formulated with the express hope that all Chinese throughout the world will work with one mind toward their fulfillment.

II. Goal

To establish a democratic, free and equitably prosperous China.

III. Principles

Both the mainland and Taiwan areas are parts of Chinese territory. Helping to bring about national unification should be the common responsibility of all Chinese people. The unification of China should be for the welfare of all its people and not be subject to partisan conflict. China's unification should aim at promoting Chinese culture, safeguarding human dignity, guaranteeing fundamental human rights, and practicing democracy and the rule of law. The timing and manner of China's unification should first respect the rights and interests of the people in the Taiwan area, and protect their security and welfare. It should be achieved in gradual phases under the principles of reason, peace, parity, and reciprocity.

IV. Process

1. Short term, a phase of exchanges and reciprocity.
 - (1) To enhance understanding through exchanges between the two sides of the Strait and eliminate hostility through reciprocity; and to establish a mutually benign relationship by not endangering each other's security and stability while in the midst of exchanges and not denying the other's existence as a political entity while in the midst of effecting reciprocity.
 - (2) To set up an order for exchanges across the Strait, to draw up regulations for such exchanges, and to establish intermediary organizations so as to protect people's rights and interests on both sides of the Strait; to gradually ease various restrictions and expand people-to-people contacts so as to promote the social prosperity of both sides.
 - (3) In order to improve the people's welfare on both sides of the Strait with the ultimate objective of unifying the nation, in the mainland area economic reform should be carried out forthrightly, the expression of public opinion there should be gradually allowed, and both democracy and the rule of law should be implemented while in the Taiwan area efforts should be made to accelerate constitutional reform and promote national development to establish a society of equitable prosperity.
 - (4) The two sides of the Strait should end the state of hostility and, under the principle of one China solve all disputes through peaceful means, and furthermore respect, not reject, each other in the international community, so as to move toward a phase of mutual trust and cooperation.
2. Medium term, a phase of mutual trust and cooperation.
 - (1) Both sides of the Strait should establish official communication channels on equal footing.

- (2) Direct postal, transport and commercial links should be allowed and both sides should jointly develop the southeastern coastal area of the Chinese mainland and then gradually extend this development to other areas of the mainland in order to narrow the gap in living standards between the two sides.
- (3) Both sides of the Strait should work together and assist each other in taking part in international organizations and activities.
- (4) Mutual visits by high-ranking officials on both sides should be promoted to create favorable conditions for consultation and unification.

3. Long term, a phase of consultation and unification

A consultative organization for unification should be established through which both sides, in accordance with the will of the people in both the mainland and Taiwan areas, and while adhering to the goals of democracy, economic freedom, social justice and nationalization of the armed forces, jointly discuss the grand task of unification and map out a constitutional system to establish a democratic, free, and equitably prosperous China.

國家統一綱領

中華民國八十年二月二十三日國家統一委員會第三次會議通過，

中華民國八十年三月十四日行政院第二二二三次會議通過

中華民國九十五年三月一日行政院第二九八〇次院會決定「『國家統一綱領』終止適用」函知本院所屬各機關查照

壹、前言

中國的統一，在謀求國家的富強與民族長遠的發展，也是海內外中國人共同的願望。海峽兩岸應在理性、和平、對等、互惠的前提下，經過適當時期的坦誠交流、合作、協商，建立民主、自由、均富的共識，共同重建一個統一的中國。基此認識，特制訂本綱領，務期海內外全體中國人同心協力，共圖貫徹。

貳、目標

建立民主、自由、均富的中國。

參、原則

- 一、大陸與台灣均是中國的領土，促成國家的統一，應是中國人共同的責任。
- 二、中國的統一，應以全民的福祉為依歸，而不是黨派之爭。
- 三、中國的統一，應以發揚中華文化，維護人性尊嚴，保障基本人權，實踐民主法治為宗旨。
- 四、中國的統一，其時機與方式，首應尊重台灣地區人民的權益並維護其安全與福祉，在理性、和平、對等、互惠的原則下，分階段逐步達成。

肆、進程

- 一、近程 - - 交流互惠階段
 - (一) 以交流促進瞭解，以互惠化解敵意；在交流中不危及對方的安全與安定，在互惠中不否定對方為政治實體，以建立良性互動關係。
 - (二) 建立兩岸交流秩序，制訂交流規範，設立中介機構，以維護兩岸人民權益；逐步放寬各項限制，擴大兩岸民間交流，以促進雙方社會繁榮。
 - (三) 在國家統一的目標下，為增進兩岸人民福祉：大陸地區應積極推動經濟改革，逐步開放輿論，實行民主法治；台灣地區則應加速憲政改革，推動國家建設，建立均富社會。
 - (四) 兩岸應摒除敵對狀態，並在一個中國的原則下，以和平方式解決一切爭端，在國際間相互尊重，互不排斥，以利進入互信合作階段。
- 二、中程 - - 互信合作階段
 - (一) 兩岸應建立對等的官方溝通管道。
 - (二) 開放兩岸直接通郵、通航、通商，共同開發大陸東南沿海地區，並逐步向其他地區推展，以縮短兩岸人民生活差距。
 - (三) 兩岸應協力互助，參加國際組織與活動。
 - (四) 推動兩岸高層人士互訪，以創造協商統一的有利條件。
- 三、遠程 - - 協商統一階段

成立兩岸統一協商機構，依據兩岸人民意願，秉持政治民主、經濟自由、社會公平及軍隊國家化的原則，共商統一大業，研訂憲政體制，以建立民主、自由、均富的中國。

Bill Clinton's "Three No's"

On June 30, 1998, during his nine-day state visit to the PRC, US President Bill Clinton made a statement on his new Taiwan position at the Shanghai Library (上海圖書館):

[...] I had a chance to reiterate our Taiwan policy, which is that we don't support independence for Taiwan, or two Chinas, or one Taiwan—one China. And we don't believe that Taiwan should be a member of any organization for which statehood is a requirement. [...]

克林頓總統的『三不』政策

[...] 這使我有機會在這裡重申我方的臺灣政策，即我們不支持臺灣獨立，不支持兩個中國或一中一台，不支持臺灣加入任何必須由主權國家才能參加的國際組織。 [...]

US Senate Resolution 107

Whereas at no time since the establishment of the People's Republic of China on October 1, 1949, has Taiwan been under the control of the People's Republic of China;

Whereas the United States began its long, peaceful, friendly relationship with Taiwan in 1949;

Whereas since the enactment of the Taiwan Relations Act in 1979, the policy of the United States has been based on the expectation that the future relationship between the People's Republic of China and Taiwan would be determined by peaceful means;

Whereas in March 1996, the People's Republic of China held provocative military maneuvers, including missile launch exercises in the Taiwan Strait, in an attempt to intimidate the people of Taiwan during their historic, free and democratic presidential election;

Whereas officials of the People's Republic of China refuse to renounce the use of force against democratic Taiwan;

Whereas Taiwan has achieved significant political and economic strength as one of the world's premier democracies and as the nineteenth largest economy in the world;

Whereas Taiwan is the seventh largest trading partner of the United States and imports more than twice as much annually from the United States as does the People's Republic of China; and

Whereas no treaties exist between the People's Republic of China and Taiwan that determine the future status of Taiwan: Now therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress--

- (1) affirms its longstanding commitment to Taiwan and the people of Taiwan in accordance with the Taiwan Relations Act (Public Law 96-8);
- (2) affirms its expectation, consistent with the Taiwan Relations Act, that the future of Taiwan will be determined by peaceful means, and considers any effort to determine the future of Taiwan by other than peaceful means a threat to the peace and security of the Western Pacific and of grave concern to the United States;
- (3) affirms its commitment, consistent with the Taiwan Relations Act, to make available to Taiwan such defense articles and defense services in such quantities as may be necessary to enable Taiwan to maintain a sufficient self-defense capability;
- (4) affirms its commitment, consistent with the Taiwan Relations Act, that only the President and Congress shall determine the nature and quantity of defense articles and services for Taiwan based solely upon their judgment of the needs of Taiwan; and

- (5) urges the President of the United States to seek a public renunciation by the People's Republic of China of any use of force, or threat to use force, against democratic Taiwan.

The title was amended so as to read: 'Affirming U.S. Commitments Under the Taiwan Relations Act'.

[July 10, 1998]

■ Editor's note =====

The title of this document can be translated to Chinese as follows: *Meiguo canyiyuan yilingqi hao gongtong jueyi'an* 美國參議院 107 號共同決議案。

US House of Representatives Resolution 301

Whereas at no time since the establishment of the People's Republic of China on October 1, 1949, has Taiwan been under the control of the People's Republic of China;

Whereas the United States began its long, peaceful, friendly relationship with Taiwan in 1949;

Whereas since the enactment of the Taiwan Relations Act in 1979, the policy of the United States has been based on the expectation that the further relationship between the People's Republic of China and Taiwan would be determined by peaceful means;

Whereas in March 1996, the People's Republic of China held provocative military maneuvers including missile launch exercises in the Taiwan Strait, in an attempt to intimidate the people of Taiwan during their historic, free, and democratic Presidential election;

Whereas officials of the People's Republic of China refuse to renounce the use of force against democratic Taiwan;

Whereas Taiwan has achieved significant political and economic strength as one of the world's premier democracies and as the 19th largest economy in the world;

Whereas Taiwan is the 7th largest trading partner of the United States;

Whereas no agreements exist between the People's Republic of China and Taiwan that determine the future status of Taiwan; and

Whereas the House of Representatives passed a resolution by a vote of 411-0 in June 1998 urging the President to seek, during his recent summit meeting in Beijing, a public renunciation by the People's Republic of China of any use of force, or threat of use of force, against democratic Taiwan: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress--

- (1) affirms its longstanding commitment to Taiwan and the people of Taiwan in accordance with the Taiwan Relations Act (Public Law 96-8);
- (2) affirms its expectation, consistent with the Taiwan Relations Act, that the future status of Taiwan will be determined by peaceful means, and that the people of both sides of the Taiwan Strait should determine their own future, and considers any effort to determine or influence the future status of Taiwan by other than peaceful means a threat to the peace and security of the Western Pacific region and of grave concern to the United States;
- (3) affirms its commitment, consistent with the Taiwan Relations Act, to make available to Taiwan such defense articles and defense services, including appropriate ballistic missile defenses, in such quantities as may be necessary to enable Taiwan to maintain a sufficient self-defense capability;
- (4) affirms its commitment, consistent with the Taiwan Relations Act, that only the President and Congress shall determine the nature and quantity of defense articles and services for Taiwan based solely upon their judgment of the defensive needs of Taiwan;
- (5) urges the President, once again, to seek a public renunciation by the People's Republic of China of any use of force, or threat of use of force, against the free people of Taiwan; and
- (6) affirms its strong support, in accordance with the spirit of the Taiwan Relations Act, of appropriate membership for Taiwan in international financial institutions and other international organizations.

[July 20, 1998]

■ Editor's note =====

The title of this document can be translated to Chinese as follows: *Meiguo zhongyiyuan sanlingyi hao gongtong jueyi'an* 美國眾議院 301 號共同決議案.

ROC President Lee Teng-hui's remarks about the "state-to-state relationship" extant between the ROC and the PRC

On July 9, 1999, ROC president Lee Teng-hui (李登輝) made a statement on the relations between the ROC and the PRC during an interview with journalists of German broadcasting station DEUTSCHE WELLE:

[...] The 1991 constitutional amendments have designated cross-strait relations as a state-to-state relationship or at least a special state-to-state relationship, rather than an internal relationship between a legitimate government and a renegade group, or between a central government and a local government. Thus, the Beijing authorities' characterization of Taiwan as a "renegade province" is historically and legally untrue. [...]

李登輝總統關於兩岸『特殊的國與國的關係』

[...] 一九九一年修憲以來，已將兩岸關係定位在國家與國家，至少是特殊的國與國的關係，而非一合法政府，一叛亂團體，或一中央政府，一地方政府的「一個中國」的內部關係。所以，您提到北京政府將台灣視為「叛離的一省」，這完全昧於歷史與法律上的事實。 [...]

Declaration on the Conduct of Parties in the South China Sea

The Governments of the Member States of ASEAN and the Government of the People's Republic of China, REAFFIRMING their determination to consolidate and develop the friendship and cooperation existing between their people and governments with the view to promoting a 21st century-oriented partnership of good neighbourliness and mutual trust;

COGNIZANT of the need to promote a peaceful, friendly and harmonious environment in the South China Sea between ASEAN and China for the enhancement of peace, stability, economic growth and prosperity in the region;

COMMITTED to enhancing the principles and objectives of the 1997 Joint Statement of the Meeting of the Heads of State/Government of the Member States of ASEAN and President of the People's Republic of China;

DESIRING to enhance favourable conditions for a peaceful and durable solution of differences and disputes among countries concerned;

HEREBY DECLARE the following:

1. The Parties reaffirm their commitment to the purposes and principles of the Charter of the United Nations, the 1982 UN Convention on the Law of the Sea, the Treaty of Amity and Cooperation in Southeast Asia, the Five Principles of Peaceful Coexistence, and other universally recognized principles of international law which shall serve as the basic norms governing state-to-state relations;
2. The Parties are committed to exploring ways for building trust and confidence in accordance with the above-mentioned principles and on the basis of equality and mutual respect;
3. The Parties reaffirm their respect for and commitment to the freedom of navigation in and overflight above the South China Sea as provided for by the universally recognized principles of international law, including the 1982 UN Convention on the Law of the Sea;
4. The Parties concerned undertake to resolve their territorial and jurisdictional disputes by peaceful means, without resorting to the threat or use of force, through friendly consultations and negotiations by sovereign states directly

concerned, in accordance with universally recognized principles of international law, including the 1982 UN Convention on the Law of the Sea;

5. The Parties undertake to exercise self-restraint in the conduct of activities that would complicate or escalate disputes and affect peace and stability including, among others, refraining from action of inhabiting on the presently uninhabited islands, reefs, shoals, cays, and other features and to handle their differences in a constructive manner.

Pending the peaceful settlement of territorial and jurisdictional disputes, the Parties concerned undertake to intensify efforts to seek ways, in the spirit of cooperation and understanding, to build trust and confidence between and among them, including:

- a. holding dialogues and exchange of views as appropriate between their defense and military officials;
 - b. ensuring just and humane treatment of all persons who are either in danger or in distress;
 - c. notifying, on a voluntary basis, other Parties concerned of any impending joint/combined military exercise; and
 - d. exchanging, on a voluntary basis, relevant information.
6. Pending a comprehensive and durable settlement of the disputes, the Parties concerned may explore or undertake cooperative activities. These may include the following:
 - a. marine environmental protection;
 - b. marine scientific research;
 - c. safety of navigation and communication at sea;
 - d. search and rescue operation; and
 - e. combating transnational crime, including but not limited to trafficking in illicit drugs, piracy and armed robbery at sea, and illegal traffic in arms.

The modalities, scope and locations, in respect of bilateral and multilateral cooperation should be agreed upon by the Parties concerned prior to their actual implementation.

7. The Parties concerned stand ready to continue their consultations and dialogues concerning relevant issues, through modalities to be agreed by them, including regular consultations on the observance of this Declaration, for the purpose of promoting good neighbourliness and transparency, establishing harmony, mutual understanding and cooperation, and facilitating peaceful resolution of disputes among them;
8. The Parties undertake to respect the provisions of this Declaration and take actions consistent therewith;
9. The Parties encourage other countries to respect the principles contained in this Declaration;
10. The Parties concerned reaffirm that the adoption of a code of conduct in the South China Sea would further promote peace and stability in the region and agree to work, on the basis of consensus, towards the eventual attainment of this objective.

Done on the Fourth Day of November in the Year Two Thousand and Two in Phnom Penh, the Kingdom of Cambodia.

For Brunei Darussalam: Mohamed Bolkiah, Minister of Foreign Affairs

For the People's Republic of China: Wang Yi 王毅, Special Envoy and Vice Minister of Foreign Affairs

For the Kingdom of Cambodia: Hor Namhong, Senior Minister and Minister of Foreign Affairs and International Cooperation

For the Republic of Indonesia: Dr. Hassan Wirayuda, Minister of Foreign Affairs

For the Lao People's Democratic Republic: Somsavat Lengsavad, Deputy Prime Minister and Minister of Foreign Affairs

For Malaysia: Datuk Seri Syed Hamid Albar, Minister of Foreign Affairs

For the Union of Myanmar: Win Aung, Minister of Foreign Affairs

For the Republic of the Philippines: Blas F. Ople, Secretary of Foreign Affairs

For the Republic of Singapore: Prof. S. Jayakumar, Minister of Foreign Affairs

For the Kingdom of Thailand: Dr. Surakiart Sathirathai, Minister of Foreign Affairs

For the Socialist Republic of Viet Nam: Nguyen Dy Nien 阮怡年, Minister of Foreign Affairs

《南海各方行為宣言》

中華人民共和國和東盟各成員國政府，重申各方決心鞏固和發展各國人民和政府之間業已存在的友誼與合作，以促進面向 21 世紀睦鄰互信夥伴關係；

認識到為增進本地區的和平、穩定、經濟發展與繁榮，中國和東盟有必要促進南海地區和平、友好與和諧的環境；

承諾促進 1997 年中華人民共和國與東盟成員國國家元首或政府首腦會晤《聯合聲明》所確立的原則和目標；

希望為和平與永久解決有關國家間的分歧和爭議創造有利條件；

謹發表如下宣言：

一、各方重申以《聯合國憲章》宗旨和原則、1982 年《聯合國海洋法公約》、《東南亞友好合作條約》、和平共處五項原則以及其它公認的國際法原則作為處理國家間關係的基本準則。

二、各方承諾根據上述原則，在平等和相互尊重的基礎上，探討建立信任的途徑。

三、各方重申尊重並承諾，包括 1982 年《聯合國海洋法公約》在內的公認的國際法原則所規定的在南海的航行及飛越自由。

四、有關各方承諾根據公認的國際法原則，包括 1982 年《聯合國海洋法公約》，由直接有關的主權國家通過友好磋商和談判，以和平方式解決它們的領土和管轄權爭議，而不訴諸武力或以武力相威脅。

五、各方承諾保持自我克制，不採取使爭議複雜化、擴大化和影響和平與穩定的行動，包括不在現無人居住的島、礁、灘、沙或其它自然構造上採取居住的行動，並以建設性的方式處理它們的分歧。

在和平解決它們的領土和管轄權爭議之前，有關各方承諾本著合作與諒解的精神，努力尋求各種途徑建立相互信任，包括：

- (一) 在各方國防及軍隊官員之間開展適當的對話和交換意見；
- (二) 保證對處於危險境地的所有公民予以公正和人道的待遇；
- (三) 在自願基礎上向其它有關各方通報即將舉行的聯合軍事演習；
- (四) 在自願基礎上相互通報有關情況。

六、在全面和永久解決爭議之前，有關各方可探討或開展合作，可包括以下領域：

- (一) 海洋環保；
- (二) 海洋科學研究；
- (三) 海上航行和交通安全；
- (四) 搜尋與救助；
- (五) 打擊跨國犯罪，包括但不限於打擊毒品走私、海盜和海上武裝搶劫以及軍火走私。

在具體實施之前，有關各方應就雙邊及多邊合作的模式、範圍和地點取得一致意見。

七、有關各方願通過各方同意的模式，就有關問題繼續進行磋商和對話，包括對遵守本宣言問題舉行定期磋商，以增進睦鄰友好關係和提高透明度，創造和諧、相互理解與合作，推動以和平方式解決彼此間爭議。

八、各方承諾尊重本宣言的條款並採取與宣言相一致的行動。

九、各方鼓勵其他國家尊重本宣言所包含的原則。

十、有關各方重申制定南海行為準則將進一步促進本地區和平與穩定，並同意在各方協商一致的基礎上，朝最終達成該目標而努力。

本宣言於 2002 年 11 月 4 日在柬埔寨王國金邊簽署。

文萊達魯薩蘭國外交大臣	穆罕默德·博爾基亞
中華人民共和國外交部副部長兼特使	王毅
柬埔寨王國外交大臣	賀南洪
印度尼西亞共和國外長	維拉尤達
老撾人民民主共和國副總理兼外長	宋沙瓦
馬來西亞外長	賽義德·哈米德
緬甸聯邦外長	吳溫昂
菲律賓共和國外長	布拉斯·奧普萊
新加坡共和國外長	S·賈古瑪
泰國外長	素拉傑·沙田泰
越南社會主義共和國外長	阮怡年

Colin Powell's statement on "one China" and Taiwan

On Oct. 25, 2004, Colin Powell, US Secretary of State [Jan. 2001 to Jan. 2005], stated in an interview with Anthony Yuen (阮次山) of Hong Kong-based Phoenix TV (鳳凰衛視) in Beijing's China World Hotel (中國大飯店):

[...] Our policy is clear, there is only one China. Taiwan is not independent. It does not enjoy sovereignty as a nation, and that remains our policy, our firm policy. [...]

鮑威爾關於『一個中國』和台灣

[...] 鮑威爾稱，美國的政策是明確的，就是只有一個中國，台灣不是獨立的，不享有作為一個“國家的主權”，那是美國的堅定政策。 [...]

The "Anti-Secession Law" of the PRC

ORDER OF THE PRESIDENT OF THE PEOPLE'S REPUBLIC OF CHINA

No. 34

The Anti-Secession Law, adopted at the Third Session of the Tenth National People's Congress of the People's Republic of China on March 14, 2005, is hereby promulgated and shall go into effect as of the date of promulgation.

Hu Jintao

President of the People's Republic of China

March 14, 2005

ANTI-SECESSION LAW

(Adopted at the Third Session of the Tenth National People's Congress on March 14, 2005)

Article 1

This Law is formulated, in accordance with the Constitution, for the purpose of opposing and checking Taiwan's secession from China by secessionists in the name of "Taiwan independence", promoting peaceful national reunification, maintaining peace and stability in the Taiwan Straits, preserving China's sovereignty and territorial integrity, and safeguarding the fundamental interests of the Chinese nation.

Article 2

There is only one China in the world. Both the mainland and Taiwan belong to one China. China's sovereignty and territorial integrity brook no division. Safeguarding China's sovereignty and territorial integrity is the common obligation of all Chinese people, the Taiwan compatriots included.

Taiwan is part of China. The state shall never allow the "Taiwan independence" secessionist forces to make Taiwan secede from China under any name or by any means.

Article 3

The Taiwan question is one that is left over from China's civil war of the late 1940s.

Solving the Taiwan question and achieving national reunification is China's internal affair, which subjects to no interference by any outside forces.

Article 4

Accomplishing the great task of reunifying the motherland is the sacred duty of all Chinese people, the Taiwan compatriots included.

Article 5

Upholding the principle of one China is the basis of peaceful reunification of the country.

To reunify the country through peaceful means best serves the fundamental interests of the compatriots on both sides of the Taiwan Straits. The state shall do its utmost with maximum sincerity to achieve a peaceful reunification.

After the country is reunified peacefully, Taiwan may practice systems different from those on the mainland and enjoy a high degree of autonomy.

Article 6

The state shall take the following measures to maintain peace and stability in the Taiwan Straits and promote cross-Straits relations:

- (1) to encourage and facilitate personnel exchanges across the Straits for greater mutual understanding and mutual trust;
- (2) to encourage and facilitate economic exchanges and cooperation, realize direct links of trade, mail and air and shipping services, and bring about closer economic ties between the two sides of the Straits to their mutual benefit;
- (3) to encourage and facilitate cross-Straits exchanges in education, science, technology, culture, health and sports, and work together to carry forward the proud Chinese cultural traditions;
- (4) to encourage and facilitate cross-Straits cooperation in combating crimes; and
- (5) to encourage and facilitate other activities that are conducive to peace and stability in the Taiwan Straits and stronger cross-Straits relations.

The state protects the rights and interests of the Taiwan compatriots in accordance with law.

Article 7

The state stands for the achievement of peaceful reunification through consultations and negotiations on an equal footing between the two sides of the Taiwan Straits. These consultations and negotiations may be conducted in steps and phases and with flexible and varied modalities.

The two sides of the Taiwan Straits may consult and negotiate on the following matters:

- (1) officially ending the state of hostility between the two sides;
- (2) mapping out the development of cross-Straits relations;
- (3) steps and arrangements for peaceful national reunification;
- (4) the political status of the Taiwan authorities;
- (5) the Taiwan region's room of international operation that is compatible with its status; and
- (6) other matters concerning the achievement of peaceful national reunification.

Article 8

In the event that the "Taiwan independence" secessionist forces should act under any name or by any means to cause the fact of Taiwan's secession from China, or that major incidents entailing Taiwan's secession from China should occur, or that possibilities for a peaceful reunification should be completely exhausted, the state shall employ non-peaceful means and other necessary measures to protect China's sovereignty and territorial integrity.

The State Council and the Central Military Commission shall decide on and execute the non-peaceful means and other necessary measures as provided for in the preceding paragraph and shall promptly report to the Standing Committee of the National People's Congress.

Article 9

In the event of employing and executing non-peaceful means and other necessary measures as provided for in this Law, the state shall exert its utmost to protect the lives, property and other legitimate rights and interests of Taiwan civilians and foreign nationals in Taiwan, and to minimize losses. At the same time, the state shall protect the rights and interests of the Taiwan compatriots in other parts of China in accordance with law.

Article 10

This Law shall come into force on the day of its promulgation.

反分裂國家法

《反分裂國家法》全文發布

2005年3月14日第十屆全國人民代表大會第三次會議通過

- 第一條 爲了反對和遏制“台獨”分裂勢力分裂國家，促進祖國和平統一，維護臺灣海峽地區和平穩定，維護國家主權和領土完整，維護中華民族的根本利益，根據憲法，制定本法。
- 第二條 世界上只有一個中國，大陸和臺灣同屬一個中國，中國的主權和領土完整不容分割。維護國家主權和領土完整是包括臺灣同胞在內的全中國人民的共同義務。臺灣是中國的一部分。國家絕不允許“台獨”分裂勢力以任何名義、任何方式把臺灣從中國分裂出去。
- 第三條 臺灣問題是中國內戰的遺留問題。解決臺灣問題，實現祖國統一，是中國的內部事務，不受任何外國勢力的干涉。
- 第四條 完成統一祖國的大業是包括臺灣同胞在內的全中國人民的神聖職責。
- 第五條 堅持一個中國原則，是實現祖國和平統一的基礎。以和平方式實現祖國統一，最符合臺灣海峽兩岸同胞的根本利益。國家以最大的誠意，盡最大的努力，實現和平統一。國家和平統一後，臺灣可以實行不同於大陸的制度，高度自治。
- 第六條 國家採取下列措施，維護臺灣海峽地區和平穩定，發展兩岸關係：
 (一) 鼓勵和推動兩岸人員往來，增進瞭解，增強互信；
 (二) 鼓勵和推動兩岸經濟交流與合作，直接通郵通航通商，密切兩岸經濟關係，互利互惠；
 (三) 鼓勵和推動兩岸教育、科技、文化、衛生、體育交流，共同弘揚中華文化的優秀傳統；
 (四) 鼓勵和推動兩岸共同打擊犯罪；
 (五) 鼓勵和推動有利於維護臺灣海峽地區和平穩定、發展兩岸關係的其他活動。
 國家依法保護臺灣同胞的權利和利益。
- 第七條 國家主張通過臺灣海峽兩岸平等的協商和談判，實現和平統一。協商和談判可以有步驟、分階段進行，方式可以靈活多樣。臺灣海峽兩岸可以就下列事項進行協商和談判：
 (一) 正式結束兩岸敵對狀態；
 (二) 發展兩岸關係的規劃；
 (三) 和平統一的步驟和安排；
 (四) 臺灣當局的政治地位；
 (五) 臺灣地區在國際上與其地位相適應的活動空間；
 (六) 與實現和平統一有關的其他任何問題。
- 第八條 “台獨”分裂勢力以任何名義、任何方式造成臺灣從中國分裂出去的事實，或者發生將會導致臺灣從中國分裂出去的重大事變，或者和平統一的可能性完全喪失，國家得採取非和平方式及其他必要措施，捍衛國家主權和領土完整。依照前款規定採取非和平方式及其他必要措施，由國務院、中央軍事委員會決定和組織實施，並及時向全國人民代表大會常務委員會報告。
- 第九條 依照本法規定採取非和平方式及其他必要措施並組織實施時，國家盡最大可能保護臺灣平民和在臺灣的外國人的生命財產安全和其他正當權益，減少損失；同時，國家依法保護臺灣同胞在中國其他地區的權利和利益。
- 第十條 本法自公佈之日起施行。

South China Sea Arbitration—PCS Press Release

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PRESS RELEASE

*THE SOUTH CHINA SEA ARBITRATION
(THE REPUBLIC OF THE PHILIPPINES V. THE PEOPLE’S REPUBLIC OF CHINA)*

The Hague, 12 July 2016

The Tribunal Renders Its Award

A unanimous Award has been issued today by the Tribunal constituted under Annex VII to the United Nations Convention on the Law of the Sea (the “Convention”) in the arbitration instituted by the Republic of the Philippines against the People’s Republic of China.

This arbitration concerned the role of historic rights and the source of maritime entitlements in the South China Sea, the status of certain maritime features and the maritime entitlements they are capable of generating, and the lawfulness of certain actions by China that were alleged by the Philippines to violate the Convention. In light of limitations on compulsory dispute settlement under the Convention, the Tribunal has emphasized that it does not rule on any question of sovereignty over land territory and does not delimit any boundary between the Parties.

China has repeatedly stated that “it will neither accept nor participate in the arbitration unilaterally initiated by the Philippines.” Annex VII, however, provides that the “[a]bsence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings.” Annex VII also provides that, in the event that a party does not participate in the proceedings, a tribunal “must satisfy itself not only that it has jurisdiction over the dispute but also that the claim is well founded in fact and law.” Accordingly, throughout these proceedings, the Tribunal has taken steps to test the accuracy of the Philippines’ claims, including by requesting further written submissions from the Philippines, by questioning the Philippines both prior to and during two hearings, by appointing independent experts to report to the Tribunal on technical matters, and by obtaining historical evidence concerning features in the South China Sea and providing it to the Parties for comment.

China has also made clear—through the publication of a Position Paper in December 2014 and in other official statements—that, in its view, the Tribunal lacks jurisdiction in this matter. Article 288 of the Convention provides that: “In the event of a dispute as to whether a court or tribunal has jurisdiction, the matter shall be settled by decision of that court or tribunal.” Accordingly, the Tribunal convened a hearing on jurisdiction and admissibility in July 2015 and rendered an Award on Jurisdiction and Admissibility on 29 October 2015, deciding some issues of jurisdiction and deferring others for further consideration. The Tribunal then convened a hearing on the merits from 24 to 30 November 2015.

The Award of today’s date addresses the issues of jurisdiction not decided in the Award on Jurisdiction and Admissibility and the merits of the Philippines’ claims over which the Tribunal has jurisdiction. The Award is final and binding, as set out in Article 296 of the Convention and Article 11 of Annex VII.

Historic Rights and the ‘Nine-Dash Line’: The Tribunal found that it has jurisdiction to consider the Parties’ dispute concerning historic rights and the source of maritime entitlements in the South China Sea. On the merits, the Tribunal concluded that the Convention comprehensively allocates rights to maritime areas and that protections for pre-existing rights to resources were considered, but not adopted in the Convention. Accordingly, the Tribunal concluded that, to the extent China had historic rights to resources in the waters of the South China Sea, such rights were extinguished to the extent they were incompatible with the exclusive economic zones provided for in the Convention. The Tribunal also noted that, although Chinese navigators and fishermen, as well as those of other States, had historically made use of the islands in the South China Sea, there was no evidence that China had historically exercised exclusive control over the waters or their resources. The Tribunal concluded that there was no legal basis for China to claim historic rights to resources within the sea areas falling within the ‘nine-dash line’.

Status of Features: The Tribunal next considered entitlements to maritime areas and the status of features. The Tribunal first undertook an evaluation of whether certain reefs claimed by China are above water at high tide. Features that are above water at high tide generate an entitlement to at least a 12 nautical mile territorial sea, whereas features that are submerged at high tide do not. The Tribunal noted that the reefs have been heavily modified by land reclamation and construction, recalled that the Convention classifies features on their natural condition, and relied on historical materials in evaluating the features. The Tribunal then considered whether any of the features claimed by China could generate maritime zones beyond 12 nautical miles. Under the Convention, islands generate an exclusive economic zone of 200 nautical miles and a continental shelf, but “[r]ocks which cannot sustain human

habitation or economic life of their own shall have no exclusive economic zone or continental shelf.” The Tribunal concluded that this provision depends upon the objective capacity of a feature, in its natural condition, to sustain either a stable community of people or economic activity that is not dependent on outside resources or purely extractive in nature. The Tribunal noted that the current presence of official personnel on many of the features is dependent on outside support and not reflective of the capacity of the features. The Tribunal found historical evidence to be more relevant and noted that the Spratly Islands were historically used by small groups of fishermen and that several Japanese fishing and guano mining enterprises were attempted. The Tribunal concluded that such transient use does not constitute inhabitation by a stable community and that all of the historical economic activity had been extractive. Accordingly, the Tribunal concluded that none of the Spratly Islands is capable of generating extended maritime zones. The Tribunal also held that the Spratly Islands cannot generate maritime zones collectively as a unit. Having found that none of the features claimed by China was capable of generating an exclusive economic zone, the Tribunal found that it could—without delimiting a boundary—declare that certain sea areas are within the exclusive economic zone of the Philippines, because those areas are not overlapped by any possible entitlement of China.

Lawfulness of Chinese Actions: The Tribunal next considered the lawfulness of Chinese actions in the South China Sea. Having found that certain areas are within the exclusive economic zone of the Philippines, the Tribunal found that China had violated the Philippines’ sovereign rights in its exclusive economic zone by (a) interfering with Philippine fishing and petroleum exploration, (b) constructing artificial islands and (c) failing to prevent Chinese fishermen from fishing in the zone. The Tribunal also held that fishermen from the Philippines (like those from China) had traditional fishing rights at Scarborough Shoal and that China had interfered with these rights in restricting access. The Tribunal further held that Chinese law enforcement vessels had unlawfully created a serious risk of collision when they physically obstructed Philippine vessels.

Harm to Marine Environment: The Tribunal considered the effect on the marine environment of China’s recent large-scale land reclamation and construction of artificial islands at seven features in the Spratly Islands and found that China had caused severe harm to the coral reef environment and violated its obligation to preserve and protect fragile ecosystems and the habitat of depleted, threatened, or endangered species. The Tribunal also found that Chinese authorities were aware that Chinese fishermen have harvested endangered sea turtles, coral, and giant clams on a substantial scale in the South China Sea (using methods that inflict severe damage on the coral reef environment) and had not fulfilled their obligations to stop such activities.

Aggravation of Dispute: Finally, the Tribunal considered whether China’s actions since the commencement of the arbitration had aggravated the dispute between the Parties. The Tribunal found that it lacked jurisdiction to consider the implications of a stand-off between Philippine marines and Chinese naval and law enforcement vessels at Second Thomas Shoal, holding that this dispute involved military activities and was therefore excluded from compulsory settlement. The Tribunal found, however, that China’s recent large-scale land reclamation and construction of artificial islands was incompatible with the obligations on a State during dispute resolution proceedings, insofar as China has inflicted irreparable harm to the marine environment, built a large artificial island in the Philippines’ exclusive economic zone, and destroyed evidence of the natural condition of features in the South China Sea that formed part of the Parties’ dispute.

An expanded summary of the Tribunal’s decisions is set out below.

The Tribunal was constituted on 21 June 2013 pursuant to the procedure set out in Annex VII of the Convention to decide the dispute presented by the Philippines. The Tribunal is composed of Judge Thomas A. Mensah of Ghana, Judge Jean-Pierre Cot of France, Judge Stanislaw Pawlak of Poland, Professor Alfred H.A. Soons of the Netherlands, and Judge Rüdiger Wolfrum of Germany. Judge Thomas A. Mensah serves as President of the Tribunal. The Permanent Court of Arbitration acts as the Registry in the proceedings.

Further information about the case may be found at www.pcacases.com/web/view/7, including the Award on Jurisdiction and Admissibility, the Rules of Procedure, earlier Press Releases, hearing transcripts, and photographs. Procedural Orders, submissions by the Philippines, and reports by the Tribunal’s experts will be made available in due course, as will unofficial Chinese translations of the Tribunal’s Awards.

Background to the Permanent Court of Arbitration

The Permanent Court of Arbitration (PCA) is an intergovernmental organization established by the 1899 Hague Convention on the Pacific Settlement of International Disputes. The PCA has 121 Member States. Headquartered at the Peace Palace in The Hague, the Netherlands, the PCA facilitates arbitration, conciliation, fact-finding, and other

dispute resolution proceedings among various combinations of States, State entities, intergovernmental organizations, and private parties. The PCA's International Bureau is currently administering 8 interstate disputes, 73 investor-State arbitrations, and 34 cases arising under contracts involving a State or other public entity. The PCA has administered 12 cases initiated by States under Annex VII to the United Nations Convention on the Law of the Sea.

In July 2013, the Tribunal in the South China Sea Arbitration appointed the PCA to serve as Registry for the proceedings. The Tribunal's Rules of Procedure provide that the PCA shall "maintain an archive of the arbitral proceedings and provide appropriate registry services as directed by the Arbitral Tribunal." Such services include assisting with the identification and appointment of experts; publishing information about the arbitration and issuing press releases; organizing the hearings at the Peace Palace in The Hague; and the financial management of the case, which involves holding a deposit for expenses in the arbitration, such as to pay arbitrator fees, experts, technical support, court reporters etc. The Registry also serves as the channel of communications amongst the Parties and the Tribunal and observer States.

Photograph: Hearing in session, July 2015, Peace Palace, The Hague. Clockwise from top left: Registrar and PCA Senior Legal Counsel Judith Levine; Judge Stanislaw Pawlak; Professor Alfred H. A. Soons; Judge Thomas A. Mensah (Presiding Arbitrator); Judge Jean-Pierre Cot; Judge Rüdiger Wolfrum; PCA Senior Legal Counsel Garth Schofield; former Secretary for Foreign Affairs of the Philippines, Mr. Albert F. Del Rosario; former Solicitor General Mr. Florin T. Hilbay, Counsel for the Philippines; Mr. Paul S. Reichler; Professor Philippe Sands; Professor Bernard H. Oxman; Professor Alan E. Boyle; Mr. Lawrence H. Martin.

SUMMARY OF THE TRIBUNAL'S DECISIONS ON ITS JURISDICTION AND ON THE MERITS OF THE PHILIPPINES' CLAIMS

1. Background to the Arbitration

The South China Sea Arbitration between the Philippines and China concerned an application by the Philippines for rulings in respect of four matters concerning the relationship between the Philippines and China in the South China Sea. First, the Philippines sought a ruling on the source of the Parties' rights and obligations in the South China Sea and the effect of the United Nations Convention on the Law of the Sea ("Convention") on China's claims to historic rights within its so-called 'nine-dash line'. Second, the Philippines sought a ruling on whether certain maritime features claimed by both China and the Philippines are properly characterized as islands, rocks, low-tide elevations or submerged banks under the Convention. The status of these features under the Convention determines the maritime zones they are capable of generating. Third, the Philippines sought rulings on whether certain Chinese actions in the South China Sea have violated the Convention, by interfering with the exercise of the Philippines' sovereign rights and freedoms under the Convention or through construction and fishing activities that have harmed the marine environment. Finally, the Philippines sought a ruling that certain actions taken by China, in particular its large-scale land reclamation and construction of artificial islands in the Spratly Islands since this arbitration was commenced, have unlawfully aggravated and extended the Parties' dispute.

The Chinese Government has adhered to the position of neither accepting nor participating in these arbitral proceedings. It has reiterated this position in diplomatic notes, in the "Position Paper of the Government of the People's Republic of China on the Matter of Jurisdiction in the South China Sea Arbitration Initiated by the Republic of the Philippines" dated 7 December 2014 ("China's Position Paper"), in letters to members of the Tribunal from the Chinese Ambassador to the Kingdom of the Netherlands, and in many public statements. The Chinese Government has also made clear that these statements and documents "shall by no means be interpreted as China's participation in the arbitral proceeding in any form."

Two provisions of the Convention address the situation of a party that objects to the jurisdiction of a tribunal and declines to participate in the proceedings:

- (a) Article 288 of the Convention provides that: "In the event of a dispute as to whether a court or tribunal has jurisdiction, the matter shall be settled by decision of that court or tribunal."
- (b) Article 9 of Annex VII to the Convention provides that:

If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to make its award. Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings. Before making its award, the arbitral tribunal must satisfy itself not only that it has jurisdiction over the dispute but also that the claim is well founded in fact and law.

Throughout these proceedings, the Tribunal has taken a number of steps to fulfil its duty to satisfy itself as to whether it has jurisdiction and whether the Philippines' claims are "well founded in fact and law". With respect to jurisdiction, the Tribunal decided to treat China's informal communications as equivalent to an objection to jurisdiction, convened a Hearing on Jurisdiction and Admissibility on 7 to 13 July 2015, questioned the Philippines both before and during the hearing on matters of jurisdiction, including potential issues not raised in China's informal communications, and issued an Award on Jurisdiction and Admissibility on 29 October 2015 (the "Award on Jurisdiction"), deciding some issues of jurisdiction and deferring others for further consideration in conjunction with the merits of the Philippines' claims. With respect to the merits, the Tribunal sought to test the accuracy of the Philippines' claims by requesting further written submissions from the Philippines, by convening a hearing on the merits from 24 to 30 November 2015, by questioning the Philippines both before and during the hearing with respect to its claims, by appointing independent experts to report to the Tribunal on technical matters, and by obtaining historical records and hydrographic survey data for the South China Sea from the archives of the United Kingdom Hydrographic Office, the National Library of France, and the French National Overseas Archives and providing it to the Parties for comment, along with other relevant materials in the public domain.

2. The Parties' Positions

The Philippines made 15 Submissions in these proceedings, requesting the Tribunal to find that:

- (1) China's maritime entitlements in the South China Sea, like those of the Philippines, may not extend beyond those expressly permitted by the United Nations Convention on the Law of the Sea;
- (2) China's claims to sovereign rights jurisdiction, and to "historic rights", with respect to the maritime areas of the South China Sea encompassed by the so-called "nine-dash line" are contrary to the Convention and without lawful effect to the extent that they exceed the geographic and substantive limits of China's maritime entitlements expressly permitted by UNCLOS;
- (3) Scarborough Shoal generates no entitlement to an exclusive economic zone or continental shelf;
- (4) Mischief Reef, Second Thomas Shoal, and Subi Reef are low-tide elevations that do not generate entitlement to a territorial sea, exclusive economic zone or continental shelf, and are not features that are capable of appropriation by occupation or otherwise;
- (5) Mischief Reef and Second Thomas Shoal are part of the exclusive economic zone and continental shelf of the Philippines;
- (6) Gaven Reef and McKennan Reef (including Hughes Reef) are low-tide elevations that do not generate entitlement to a territorial sea, exclusive economic zone or continental shelf, but their low-water line may be used to determine the baseline from which the breadth of the territorial sea of Namyt and Sin Cowe, respectively, is measured;
- (7) Johnson Reef, Cuarteron Reef and Fiery Cross Reef generate no entitlement to an exclusive economic zone or continental shelf;
- (8) China has unlawfully interfered with the enjoyment and exercise of the sovereign rights of the Philippines with respect to the living and non-living resources of its exclusive economic zone and continental shelf;
- (9) China has unlawfully failed to prevent its nationals and vessels from exploiting the living resources in the exclusive economic zone of the Philippines;
- (10) China has unlawfully prevented Philippine fishermen from pursuing their livelihoods by interfering with traditional fishing activities at Scarborough Shoal;
- (11) China has violated its obligations under the Convention to protect and preserve the marine environment at Scarborough Shoal, Second Thomas Shoal, Cuarteron Reef, Fiery Cross Reef, Gaven Reef, Johnson Reef, Hughes Reef and Subi Reef;
- (12) China's occupation of and construction activities on Mischief Reef
 - (a) violate the provisions of the Convention concerning artificial islands, installations and structures;
 - (b) violate China's duties to protect and preserve the marine environment under the Convention; and
 - (c) constitute unlawful acts of attempted appropriation in violation of the Convention;
- (13) China has breached its obligations under the Convention by operating its law enforcement vessels in a dangerous manner, causing serious risk of collision to Philippine vessels navigating in the vicinity of

Scarborough Shoal;

- (14) Since the commencement of this arbitration in January 2013, China has unlawfully aggravated and extended the dispute by, among other things:
- (a) interfering with the Philippines' rights of navigation in the waters at, and adjacent to, Second Thomas Shoal;
 - (b) preventing the rotation and resupply of Philippine personnel stationed at Second Thomas Shoal;
 - (c) endangering the health and well-being of Philippine personnel stationed at Second Thomas Shoal; and
 - (d) conducting dredging, artificial island-building and construction activities at Mischief Reef, Cuarteron Reef, Fiery Cross Reef, Gaven Reef, Johnson Reef, Hughes Reef and Subi Reef; and
- (15) China shall respect the rights and freedoms of the Philippines under the Convention, shall comply with its duties under the Convention, including those relevant to the protection and preservation of the marine environment in the South China Sea, and shall exercise its rights and freedoms in the South China Sea with due regard to those of the Philippines under the Convention.

With respect to jurisdiction, the Philippines has asked the Tribunal to declare that the Philippines' claims "are entirely within its jurisdiction and are fully admissible."

China does not accept and is not participating in this arbitration but stated its position that the Tribunal "does not have jurisdiction over this case." In its Position Paper, China advanced the following arguments:

- The essence of the subject-matter of the arbitration is the territorial sovereignty over several maritime features in the South China Sea, which is beyond the scope of the Convention and does not concern the interpretation or application of the Convention;
- China and the Philippines have agreed, through bilateral instruments and the Declaration on the Conduct of Parties in the South China Sea, to settle their relevant disputes through negotiations. By unilaterally initiating the present arbitration, the Philippines has breached its obligation under international law;
- Even assuming, *arguendo*, that the subject-matter of the arbitration were concerned with the interpretation or application of the Convention, that subject-matter would constitute an integral part of maritime delimitation between the two countries, thus falling within the scope of the declaration filed by China in 2006 in accordance with the Convention, which excludes, *inter alia*, disputes concerning maritime delimitation from compulsory arbitration and other compulsory dispute settlement procedures;

Although China has not made equivalent public statements with respect to the merits of the majority of the Philippines' claims, the Tribunal has sought throughout the proceedings to ascertain China's position on the basis of its contemporaneous public statements and diplomatic correspondence.

3. The Tribunal's Decisions on the Scope of its Jurisdiction

The Tribunal has addressed the scope of its jurisdiction to consider the Philippines' claims both in its Award on Jurisdiction, to the extent that issues of jurisdiction could be decided as a preliminary matter, and in its Award of 12 July 2016, to the extent that issues of jurisdiction were intertwined with the merits of the Philippines' claims. The Tribunal's Award of 12 July 2016 also incorporates and reaffirms the decisions on jurisdiction taken in the Award on Jurisdiction.

For completeness, the Tribunal's decisions on jurisdiction in both awards are summarized here together.

a. Preliminary Matters

In its Award on Jurisdiction, the Tribunal considered a number of preliminary matters with respect to its jurisdiction. The Tribunal noted that both the Philippines and China are parties to the Convention and that the Convention does not permit a State to except itself generally from the mechanism for the resolution of disputes set out in the Convention. The Tribunal held that China's non-participation does not deprive the Tribunal of jurisdiction and that the Tribunal had been properly constituted pursuant to the provisions of Annex VII to the Convention, which include a procedure to form a tribunal even in the absence of one party. Finally, the Tribunal rejected an argument set out in China's Position Paper and held that the mere act of unilaterally initiating an arbitration cannot constitute an abuse of the Convention.

b. Existence of a Dispute Concerning Interpretation and Application of the Convention

In its Award on Jurisdiction, the Tribunal considered whether the Parties' disputes concerned the interpretation or application of the Convention, which is a requirement for resort to the dispute settlement mechanisms of the Convention.

The Tribunal rejected the argument set out in China's Position Paper that the Parties' dispute is actually about territorial sovereignty and therefore not a matter concerning the Convention. The Tribunal accepted that there is a dispute between the Parties concerning sovereignty over islands in the South China Sea, but held that the matters submitted to arbitration by the Philippines do not concern sovereignty. The Tribunal considered that it would not need to implicitly decide sovereignty to address the Philippines' Submissions and that doing so would not advance the sovereignty claims of either Party to islands in the South China Sea.

The Tribunal also rejected the argument set out in China's Position Paper that the Parties' dispute is actually about maritime boundary delimitation and therefore excluded from dispute settlement by Article 298 of the Convention and a declaration that China made on 25 August 2006 pursuant to that Article. The Tribunal noted that a dispute concerning whether a State has an entitlement to a maritime zone is a distinct matter from the delimitation of maritime zones in an area in which they overlap. The Tribunal noted that entitlements, together with a wide variety of other issues, are commonly considered in a boundary delimitation, but can also arise in other contexts. The Tribunal held that it does not follow that a dispute over each of these issues is necessarily a dispute over boundary delimitation.

Finally, the Tribunal held that each of the Philippines' Submissions reflected a dispute concerning the Convention. In doing so, the Tribunal emphasized (a) that a dispute concerning the interaction between the Convention and other rights (including any Chinese "historic rights") is a dispute concerning the Convention and (b) that where China has not clearly stated its position, the existence of a dispute may be inferred from the conduct of a State or from silence and is a matter to be determined objectively.

c. Involvement of Indispensable Third-Parties

In its Award on Jurisdiction, the Tribunal considered whether the absence from this arbitration of other States that have made claims to the islands of the South China Sea would be a bar to the Tribunal's jurisdiction. The Tribunal noted that the rights of other States would not form "the very subject-matter of the decision," the standard for a third-party to be indispensable. The Tribunal further noted that in December 2014, Viet Nam had submitted a statement to the Tribunal, in which Viet Nam asserted that it has "no doubt that the Tribunal has jurisdiction in these proceedings." The Tribunal also noted that Viet Nam, Malaysia, and Indonesia had attended the hearing on jurisdiction as observers, without any State raising the argument that its participation was indispensable.

In its Award of 12 July 2016, the Tribunal noted that it had received a communication from Malaysia on 23 June 2016, recalling Malaysia's claims in the South China Sea. The Tribunal compared its decisions on the merits of the Philippines' Submissions with the rights claimed by Malaysia and reaffirmed its decision that Malaysia is not an indispensable party and that Malaysia's interests in the South China Sea do not prevent the Tribunal from addressing the Philippines' Submissions.

d. Preconditions to Jurisdiction

In its Award on Jurisdiction, the Tribunal considered the applicability of Articles 281 and 282 of the Convention, which may prevent a State from making use of the mechanisms under the Convention if they have already agreed to another means of dispute resolution.

The Tribunal rejected the argument set out in China's Position Paper that the 2002 China–ASEAN Declaration on the Conduct of Parties in the South China Sea prevented the Philippines from initiating arbitration. The Tribunal held that the Declaration is a political agreement and not legally binding, does not provide a mechanism for binding settlement, does not exclude other means of dispute settlement, and therefore does not restrict the Tribunal's jurisdiction under Articles 281 or 282. The Tribunal also considered the Treaty of Amity and Cooperation in Southeast Asia, and the Convention on Biological Diversity, and a series of joint statements issued by the Philippines and China referring to the resolution of disputes through negotiations and concluded that none of these instruments constitute an agreement that would prevent the Philippines from bringing its claims to arbitration.

The Tribunal further held that the Parties had exchanged views regarding the settlement of their disputes, as required by Article 283 of the Convention, before the Philippines initiated the arbitration. The Tribunal concluded that this requirement was met in the record of diplomatic communications between the Philippines and China, in which the Philippines expressed a clear preference for multilateral negotiations involving the other States surrounding the

South China Sea, while China insisted that only bilateral talks could be considered.

e. Exceptions and Limitations to Jurisdiction

In its Award of 12 July 2016, the Tribunal considered whether the Philippines' Submissions concerning Chinese historic rights and the 'nine-dash line' were affected by the exception from jurisdiction for disputes concerning "historic title" in Article 298 of the Convention. The Tribunal reviewed the meaning of "historic title" in the law of the sea and held that this refers to claims of historic sovereignty over bays and other near-shore waters. Reviewing China's claims and conduct in the South China Sea, the Tribunal concluded that China claims historic rights to resources within the 'nine-dash line', but does not claim historic title over the waters of the South China Sea. Accordingly, the Tribunal concluded that it had jurisdiction to consider the Philippines' claims concerning historic rights and, as between the Philippines and China, the 'nine-dash line'.

In its Award of 12 July 2016, the Tribunal also considered whether the Philippines' Submissions were affected by the exception from jurisdiction in Article 298 for disputes concerning sea boundary delimitation. The Tribunal had already found in its Award on Jurisdiction that the Philippines' Submissions do not concern boundary delimitation as such, but noted that several of the Philippines' Submissions were dependent on certain areas forming part of the Philippines' exclusive economic zone. The Tribunal held that it could only address such submissions if there was no possibility that China could have an entitlement to an exclusive economic zone overlapping that of the Philippines and deferred a final decision on its jurisdiction. In its Award of 12 July 2016, the Tribunal reviewed evidence about the reefs and islands claimed by China in the South China Sea and concluded that none is capable of generating an entitlement to an exclusive economic zone. Because China has no possible entitlement to an exclusive economic zone overlapping that of the Philippines in the Spratly Islands, the Tribunal held that the Philippines' submissions were not dependent on a prior delimitation of a boundary.

In its Award of 12 July 2016, the Tribunal also considered whether the Philippines' Submissions were affected by the exception from jurisdiction in Article 298 for disputes concerning law enforcement activities in the exclusive economic zone. The Tribunal recalled that the exception in Article 298 would apply only if the Philippines' Submissions related to law enforcement activities in China's exclusive economic zone. Because, however, the Philippines' Submissions related to events in the Philippines' own exclusive economic zone or in the territorial sea, the Tribunal concluded that Article 298 did not pose an obstacle to its jurisdiction.

Lastly, in its Award of 12 July 2016, the Tribunal considered whether the Philippines' submissions were affected by the exception from jurisdiction in Article 298 for disputes concerning military activities. The Tribunal considered that the stand-off between Philippine marines on Second Thomas Shoal and Chinese naval and law enforcement vessels constituted military activities and concluded that it lacked jurisdiction over the Philippines' Submission No. 14(a)-(c). The Tribunal also considered whether China's land reclamation and construction of artificial islands at seven features in the Spratly Islands constituted military activities, but noted that China had repeatedly emphasized the non-military nature of its actions and had stated at the highest level that it would not militarize its presence in the Spratlys. The Tribunal decided that it would not deem activities to be military in nature when China itself had repeatedly affirmed the opposite. Accordingly, the Tribunal concluded that Article 298 did not pose an obstacle to its jurisdiction.

4. The Tribunal's Decisions on the Merits of the Philippines' Claims

a. The 'Nine-Dash Line' and China's Claim to Historic Rights in the Maritime Areas of the South China Sea

In its Award of 12 July 2016, the Tribunal considered the implications of China's 'nine-dash line' and whether China has historic rights to resources in the South China Sea beyond the limits of the maritime zones that it is entitled to pursuant to the Convention.

The Tribunal examined the history of the Convention and its provisions concerning maritime zones and concluded that the Convention was intended to comprehensively allocate the rights of States to maritime areas. The Tribunal noted that the question of pre-existing rights to resources (in particular fishing resources) was carefully considered during the negotiations on the creation of the exclusive economic zone and that a number of States wished to preserve historic fishing rights in the new zone. This position was rejected, however, and the final text of the Convention gives other States only a limited right of access to fisheries in the exclusive economic zone (in the event the coastal State cannot harvest the full allowable catch) and no rights to petroleum or mineral resources. The Tribunal found that China's claim to historic rights to resources was incompatible with the detailed allocation of

rights and maritime zones in the Convention and concluded that, to the extent China had historic rights to resources in the waters of the South China Sea, such rights were extinguished by the entry into force of the Convention to the extent they were incompatible with the Convention's system of maritime zones.

The Tribunal also examined the historical record to determine whether China actually had historic rights to resources in the South China Sea prior to the entry into force of the Convention. The Tribunal noted that there is evidence that Chinese navigators and fishermen, as well as those of other States, had historically made use of the islands in the South China Sea, although the Tribunal emphasized that it was not empowered to decide the question of sovereignty over the islands. However, the Tribunal considered that prior to the Convention, the waters of the South China Sea beyond the territorial sea were legally part of the high seas, in which vessels from any State could freely navigate and fish. Accordingly, the Tribunal concluded that historical navigation and fishing by China in the waters of the South China Sea represented the exercise of high seas freedoms, rather than a historic right, and that there was no evidence that China had historically exercised exclusive control over the waters of the South China Sea or prevented other States from exploiting their resources.

Accordingly, the Tribunal concluded that, as between the Philippines and China, there was no legal basis for China to claim historic rights to resources, in excess of the rights provided for by the Convention, within the sea areas falling within the 'nine-dash line'.

b. The Status of Features in the South China Sea

In its Award of 12 July 2016, the Tribunal considered the status of features in the South China Sea and the entitlements to maritime areas that China could potentially claim pursuant to the Convention.

The Tribunal first undertook a technical evaluation as to whether certain coral reefs claimed by China are or are not above water at high tide. Under Articles 13 and 121 of the Convention, features that are above water at high tide generate an entitlement to at least a 12 nautical mile territorial sea, whereas features that are submerged at high tide generate no entitlement to maritime zones. The Tribunal noted that many of the reefs in the South China Sea have been heavily modified by recent land reclamation and construction and recalled that the Convention classifies features on the basis of their natural condition. The Tribunal appointed an expert hydrographer to assist it in evaluating the Philippines' technical evidence and relied heavily on archival materials and historical hydrographic surveys in evaluating the features. The Tribunal agreed with the Philippines that Scarborough Shoal, Johnson Reef, Cuarteron Reef, and Fiery Cross Reef are high-tide features and that Subi Reef, Hughes Reef, Mischief Reef, and Second Thomas Shoal were submerged at high tide in their natural condition. However, the Tribunal disagreed with the Philippines regarding the status of Gaven Reef (North) and McKennan Reef and concluded that both are high tide features.

The Tribunal then considered whether any of the features claimed by China could generate an entitlement to maritime zones beyond 12 nautical miles. Under Article 121 of the Convention, islands generate an entitlement to an exclusive economic zone of 200 nautical miles and to a continental shelf, but "[r]ocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf." The Tribunal noted that this provision was closely linked to the expansion of coastal State jurisdiction with the creation of the exclusive economic zone and was intended to prevent insignificant features from generating large entitlements to maritime zones that would infringe on the entitlements of inhabited territory or on the high seas and the area of the seabed reserved for the common heritage of mankind. The Tribunal interpreted Article 121 and concluded that the entitlements of a feature depend on (a) the objective capacity of a feature, (b) in its natural condition, to sustain either (c) a stable community of people or (d) economic activity that is neither dependent on outside resources nor purely extractive in nature.

The Tribunal noted that many of the features in the Spratly Islands are currently controlled by one or another of the littoral States, which have constructed installations and maintain personnel there. The Tribunal considered these modern presences to be dependent on outside resources and support and noted that many of the features have been modified to improve their habitability, including through land reclamation and the construction of infrastructure such as desalination plants. The Tribunal concluded that the current presence of official personnel on many of the features does not establish their capacity, in their natural condition, to sustain a stable community of people and considered that historical evidence of habitation or economic life was more relevant to the objective capacity of the features. Examining the historical record, the Tribunal noted that the Spratly Islands were historically used by small groups of fishermen from China, as well as other States, and that several Japanese fishing and guano mining enterprises were attempted in the 1920s and 1930s. The Tribunal concluded that temporary use of the features by

fishermen did not amount to inhabitation by a stable community and that all of the historical economic activity had been extractive in nature. Accordingly, the Tribunal concluded that all of the high-tide features in the Spratly Islands (including, for example, Itu Aba, Thitu, West York Island, Spratly Island, North-East Cay, South-West Cay) are legally “rocks” that do not generate an exclusive economic zone or continental shelf.

The Tribunal also held that the Convention does not provide for a group of islands such as the Spratly Islands to generate maritime zones collectively as a unit.

c. Chinese Activities in the South China Sea

In its Award of 12 July 2016, the Tribunal considered the lawfulness under the Convention of various Chinese actions in the South China Sea.

Having found that Mischief Reef, Second Thomas Shoal and Reed Bank are submerged at high tide, form part of the exclusive economic zone and continental shelf of the Philippines, and are not overlapped by any possible entitlement of China, the Tribunal concluded that the Convention is clear in allocating sovereign rights to the Philippines with respect to sea areas in its exclusive economic zone. The Tribunal found as a matter of fact that China had (a) interfered with Philippine petroleum exploration at Reed Bank, (b) purported to prohibit fishing by Philippine vessels within the Philippines’ exclusive economic zone, (c) protected and failed to prevent Chinese fishermen from fishing within the Philippines’ exclusive economic zone at Mischief Reef and Second Thomas Shoal, and (d) constructed installations and artificial islands at Mischief Reef without the authorization of the Philippines. The Tribunal therefore concluded that China had violated the Philippines’ sovereign rights with respect to its exclusive economic zone and continental shelf.

The Tribunal next examined traditional fishing at Scarborough Shoal and concluded that fishermen from the Philippines, as well as fishermen from China and other countries, had long fished at the Shoal and had traditional fishing rights in the area. Because Scarborough Shoal is above water at high tide, it generates an entitlement to a territorial sea, its surrounding waters do not form part of the exclusive economic zone, and traditional fishing rights were not extinguished by the Convention. Although the Tribunal emphasized that it was not deciding sovereignty over Scarborough Shoal, it found that China had violated its duty to respect to the traditional fishing rights of Philippine fishermen by halting access to the Shoal after May 2012. The Tribunal noted, however, that it would reach the same conclusion with respect to the traditional fishing rights of Chinese fishermen if the Philippines were to prevent fishing by Chinese nationals at Scarborough Shoal.

The Tribunal also considered the effect of China’s actions on the marine environment. In doing so, the Tribunal was assisted by three independent experts on coral reef biology who were appointed to assist it in evaluating the available scientific evidence and the Philippines’ expert reports. The Tribunal found that China’s recent large scale land reclamation and construction of artificial islands at seven features in the Spratly Islands has caused severe harm to the coral reef environment and that China has violated its obligation under Articles 192 and 194 of the Convention to preserve and protect the marine environment with respect to fragile ecosystems and the habitat of depleted, threatened, or endangered species. The Tribunal also found that Chinese fishermen have engaged in the harvesting of endangered sea turtles, coral, and giant clams on a substantial scale in the South China Sea, using methods that inflict severe damage on the coral reef environment. The Tribunal found that Chinese authorities were aware of these activities and failed to fulfill their due diligence obligations under the Convention to stop them.

Finally, the Tribunal considered the lawfulness of the conduct of Chinese law enforcement vessels at Scarborough Shoal on two occasions in April and May 2012 when Chinese vessels had sought to physically obstruct Philippine vessels from approaching or gaining entrance to the Shoal. In doing so, the Tribunal was assisted by an independent expert on navigational safety who was appointed to assist it in reviewing the written reports provided by the officers of the Philippine vessels and the expert evidence on navigational safety provided by the Philippines. The Tribunal found that Chinese law enforcement vessels had repeatedly approached the Philippine vessels at high speed and sought to cross ahead of them at close distances, creating serious risk of collision and danger to Philippine ships and personnel. The Tribunal concluded that China had breached its obligations under the Convention on the International Regulations for Preventing Collisions at Sea, 1972, and Article 94 the Convention concerning maritime safety.

d. Aggravation of the Dispute between the Parties

In its Award of 12 July 2016, the Tribunal considered whether China’s recent large-scale land reclamation and construction of artificial islands at seven features in the Spratly Islands since the commencement of the arbitration

had aggravated the dispute between the Parties. The Tribunal recalled that there exists a duty on parties engaged in a dispute settlement procedure to refrain from aggravating or extending the dispute or disputes at issue during the pendency of the settlement process. The Tribunal noted that China has (a) built a large artificial island on Mischief Reef, a low-tide elevation located in the exclusive economic zone of the Philippines; (b) caused permanent, irreparable harm to the coral reef ecosystem and (c) permanently destroyed evidence of the natural condition of the features in question. The Tribunal concluded that China had violated its obligations to refrain from aggravating or extending the Parties’ disputes during the pendency of the settlement process.

e. Future Conduct of the Parties

Finally, the Tribunal considered the Philippines’ request for a declaration that, going forward, China shall respect the rights and freedoms of the Philippines and comply with its duties under the Convention. In this respect, the Tribunal noted that both the Philippines and China have repeatedly accepted that the Convention and general obligations of good faith define and regulate their conduct. The Tribunal considered that the root of the disputes at issue in this arbitration lies not in any intention on the part of China or the Philippines to infringe on the legal rights of the other, but rather in fundamentally different understandings of their respective rights under the Convention in the waters of the South China Sea. The Tribunal recalled that it is a fundamental principle of international law that bad faith is not presumed and noted that Article 11 of Annex VII provides that the “award . . . shall be complied with by the parties to the dispute.” The Tribunal therefore considered that no further declaration was necessary.

■ Editor’s note =====

On Jan. 22, 2013, the Republic of the Philippines instituted arbitral proceedings against the People’s Republic of China (PRC) under [Annex VII](#) to the United Nations Convention on the Law of the Sea ([UNCLOS](#)). The arbitration concerned the role of historic rights and the source of maritime entitlements in the South China Sea, the status of certain maritime features in the South China Sea, and the lawfulness of certain actions by the PRC in the South China Sea that the Philippines alleged to be in violation of UNCLOS. The PRC adopted a position of non-acceptance and non-participation in the proceedings. The Permanent Court of Arbitration (PCA) based in The Hague (Netherlands) served as Registry in this arbitration. Relevant case information is listed on the PCA website (click [here](#)), the full texts of the South China Sea Arbitration Award of July 12, 2016 can be found on that website as well—PCA Case N° 2013-19 (English, [PDE](#), 501 pages) and its unofficial Chinese translation ([南海問題仲裁 2016 年 7 月 12 日 裁決非官方翻譯](#), [PDE](#), 345 pages). For above press release click [here](#). Please note that the PCA ruling in the South China Sea arbitration was rejected by both the PRC and the ROC.

Taiwan Travel Act

Public Law 115-135

115th Congress

Mar. 16, 2018—[H.R.535] - Taiwan Travel Act

An Act

To encourage visits between the United States and Taiwan at all levels, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Taiwan Travel Act”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Taiwan Relations Act (22 U.S.C. 3301 et seq.), enacted in 1979, has continued for 37 years to be a cornerstone of relations between the United States and Taiwan and has served as an anchor for peace and security in the Western Pacific area.

(2) The Taiwan Relations Act declares that peace and stability in the Western Pacific area are in the political, security, and economic interests of the United States and are matters of international concern.

(3) The United States considers any effort to determine the future of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States.

(4) Taiwan has succeeded in a momentous transition to democracy beginning in the late 1980s and has been a beacon of democracy in Asia, and Taiwan's democratic achievements inspire many countries and people in the region.

(5) Visits to a country by United States Cabinet members and other high-ranking officials are an indicator of the breadth and depth of ties between the United States and such country.

(6) Since the enactment of the Taiwan Relations Act, relations between the United States and Taiwan have suffered from insufficient high-level communication due to the self-imposed restrictions that the United States maintains on high-level visits with Taiwan.

SEC. 3. SENSE OF CONGRESS; STATEMENT OF POLICY.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States Government should encourage visits between officials from the United States and Taiwan at all levels.

(b) STATEMENT OF POLICY.—It should be the policy of the United States to—

(1) allow officials at all levels of the United States Government, including Cabinet-level national security officials, general officers, and other executive branch officials, to travel to Taiwan to meet their Taiwanese counterparts;

(2) allow high-level officials of Taiwan to enter the United States, under conditions which demonstrate appropriate respect for the dignity of such officials, and to meet with officials of the United States, including officials from the Department of State and the Department of Defense and other Cabinet agencies; and

(3) encourage the Taipei Economic and Cultural Representative Office, and any other instrumentality established by Taiwan, to conduct business in the United States, including activities which involve participation by Members of Congress, officials of Federal, State, or local governments of the United States, or any high-level official of Taiwan.

Approved March 16, 2018.

LEGISLATIVE HISTORY—H.R. 535:

CONGRESSIONAL RECORD, Vol. 164 (2018):

Jan. 9, considered and passed House.

Feb. 28, considered and passed Senate.

TAIPEI Act of 2019

Public Law 116-135

116th Congress

Mar. 26, 2020—[S.1678] - Taiwan Allies International Protection and Enhancement Initiative (TAIPEI) Act of 2019.

An Act

To express United States support for Taiwan's diplomatic alliances around the world.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Taiwan Allies International Protection and Enhancement Initiative (TAIPEI) Act of 2019”.

SEC. 2. DIPLOMATIC RELATIONS WITH TAIWAN.

(a) Findings.—Congress makes the following findings:

(1) The Taiwan Relations Act of 1979 (Public Law 96-8) states that it is the policy of the United States “to preserve and promote extensive, close, and friendly commercial, cultural, and other relations between the people

of the United States and the people on Taiwan”.

(2) The Taiwan Relations Act of 1979 states that it is the policy of the United States “to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan”.

(3) Taiwan is a free, democratic, and prosperous nation of 23,000,000 people and an important contributor to peace and stability around the world.

(4) Since the election of President Tsai Ing-wen as President of Taiwan in 2016, the Government of the People’s Republic of China has intensified its efforts to pressure Taiwan.

(5) Since 2016, the Gambia, Sao Tome and Principe, Panama, the Dominican Republic, Burkina Faso, El Salvador, the Solomon Islands, and Kiribati have severed diplomatic relations with Taiwan in favor of diplomatic relations with China.

(6) Taiwan currently maintains full diplomatic relations with 15 nations around the world.

(7) Taiwan’s unique relationship with the United States, Australia, India, Japan, and other countries are of significant benefit in strengthening Taiwan’s economy and preserving its international space.

(8) According to President Tsai Ing-wen, the severance of diplomatic ties with Taiwan in favor of diplomatic relations with China is “part of a series of diplomatic and military acts of coercion” by China.

(9) The Asia Reassurance Initiative Act of 2018 (Public Law 115-409) states that—

(A) it is United States policy “to support the close economic, political, and security relationship between Taiwan and the United States”; and

(B) the President should—

(i) “conduct regular transfers of defense articles to Taiwan that are tailored to meet the existing and likely future threats from the People’s Republic of China, including supporting the efforts of Taiwan to develop and integrate asymmetric capabilities, as appropriate, including mobile, survivable, and cost-effective capabilities, into its military forces”; and

(ii) “encourage the travel of high-level United States officials to Taiwan, in accordance with the Taiwan Travel Act”.

SEC. 3. SENSE OF CONGRESS ON TRADE AND ECONOMIC RELATIONS WITH TAIWAN.

It is the sense of Congress that—

(1) the United States and Taiwan have built a strong economic partnership, with the United States now Taiwan’s second largest trading partner and with Taiwan the 11th largest trading partner of the United States and a key destination for United States agricultural exports;

(2) strong United States-Taiwan economic relations have been a positive factor in stimulating economic growth and job creation for the people of both the United States and Taiwan; and

(3) the United States Trade Representative should consult with Congress on opportunities for further strengthening bilateral trade and economic relations between the United States and Taiwan.

SEC. 4. POLICY OF THE UNITED STATES WITH REGARD TO TAIWAN’S PARTICIPATION IN INTERNATIONAL ORGANIZATIONS.

It should be the policy of the United States—

(1) to advocate, as appropriate—

(A) for Taiwan’s membership in all international organizations in which statehood is not a requirement and in which the United States is also a participant; and

(B) for Taiwan to be granted observer status in other appropriate international organizations;

(2) to instruct, as appropriate, representatives of the United States Government in all organizations described in paragraph (1) to use the voice, vote, and influence of the United States to advocate for Taiwan’s membership or observer status in such organizations; and

(3) for the President or the President’s designees to advocate, as appropriate, for Taiwan’s membership or observer status in all organizations described in paragraph (1) as part of any relevant bilateral engagements between the United States and the People’s Republic of China, including leader summits and the U.S.-China Comprehensive Economic Dialogue.

SEC. 5. STRENGTHENING OF TIES WITH TAIWAN.

(a) Sense of Congress.—It is the sense of Congress that the United States Government should—

(1) support Taiwan in strengthening its official diplomatic relationships as well as other partnerships with countries in the Indo-Pacific region and around the world;

(2) consider, in certain cases as appropriate and in alignment with United States interests, increasing its economic, security, and diplomatic engagement with nations that have demonstrably strengthened, enhanced, or upgraded relations with Taiwan; and

(3) consider, in certain cases as appropriate, in alignment with United States foreign policy interests and in consultation with Congress, altering its economic, security, and diplomatic engagement with nations that take serious or significant actions to undermine the security or prosperity of Taiwan.

(b) Report.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter for five years, the Secretary of State shall report to the appropriate congressional committees on the steps taken in accordance with subsection (a).

(c) Appropriate Congressional Committees Defined.—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Foreign Relations, the Committee on Appropriations, and the Committee on Finance of the Senate; and

(2) the Committee on Foreign Affairs, the Committee on Appropriations, and the Committee on Ways and Means of the House of Representatives.

Approved March 26, 2020.

LEGISLATIVE HISTORY—S. 1678:

CONGRESSIONAL RECORD:

Vol. 165 (2019): Oct. 29, considered and passed Senate.

Vol. 166 (2020): Mar. 3, 4, considered and passed House, amended.

Mar. 11, Senate concurred in House amendment.

Hong Kong National Security Law

The Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region

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CHAPTER I: GENERAL PRINCIPLES

Article 1

This Law is enacted, in accordance with the Constitution of the People's Republic of China, the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, and the Decision of the National People's Congress on Establishing and Improving the Legal System and Enforcement Mechanisms for Safeguarding National Security in the Hong Kong Special Administrative Region, for the purpose of:

- ensuring the resolute, full and faithful implementation of the policy of One Country, Two Systems under which the people of Hong Kong administer Hong Kong with a high degree of autonomy;
- safeguarding national security;
- preventing, suppressing and imposing punishment for the offences of secession, subversion, organisation and perpetration of terrorist activities, and collusion with a foreign country or with external elements to endanger national security in relation to the Hong Kong Special Administrative Region;
- maintaining prosperity and stability of the Hong Kong Special Administrative Region; and
- protecting the lawful rights and interests of the residents of the Hong Kong Special Administrative Region.

Article 2

The provisions in Articles 1 and 12 of the Basic Law of the Hong Kong Special Administrative Region on the legal status of the Hong Kong Special Administrative Region are the fundamental provisions in the Basic Law. No institution, organisation or individual in the Region shall contravene these provisions in exercising their rights and freedoms.

Article 3

The Central People's Government has an overarching responsibility for national security affairs relating to the Hong Kong Special Administrative Region.

It is the duty of the Hong Kong Special Administrative Region under the Constitution to safeguard national security and the Region shall perform the duty accordingly.

The executive authorities, legislature and judiciary of the Region shall effectively prevent, suppress and impose punishment for any act or activity endangering national security in accordance with this Law and other relevant laws.

Article 4

Human rights shall be respected and protected in safeguarding national security in the Hong Kong Special Administrative Region. The rights and freedoms, including the freedoms of speech, of the press, of publication, of association, of assembly, of procession and of demonstration, which the residents of the Region enjoy under the Basic Law of the Hong Kong Special Administrative Region and the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as applied to Hong Kong, shall be protected in accordance with the law.

Article 5

The principle of the rule of law shall be adhered to in preventing, suppressing, and imposing punishment for offences endangering national security. A person who commits an act which constitutes an offence under the law shall be convicted and punished in accordance with the law. No one shall be convicted and punished for an act which does not constitute an offence under the law.

A person is presumed innocent until convicted by a judicial body. The right to defend himself or herself and other rights in judicial proceedings that a criminal suspect, defendant, and other parties in judicial proceedings are entitled to under the law shall be protected. No one shall be liable to be tried or punished again for an offence for which he or she has already been finally convicted or acquitted in judicial proceedings.

Article 6

It is the common responsibility of all the people of China, including the people of Hong Kong, to safeguard the sovereignty, unification and territorial integrity of the People's Republic of China.

Any institution, organisation or individual in the Hong Kong Special Administrative Region shall abide by this Law and the laws of the Region in relation to the safeguarding of national security, and shall not engage in any act or activity which endangers national security.

A resident of the Region who stands for election or assumes public office shall confirm in writing or take an oath to uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China in accordance with the law.

CHAPTER II: THE DUTIES AND THE GOVERNMENT BODIES OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION FOR SAFEGUARDING NATIONAL SECURITY

Part 1: Duties

Article 7

The Hong Kong Special Administrative Region shall complete, as early as possible, legislation for safeguarding national security as stipulated in the Basic Law of the Hong Kong Special Administrative Region and shall refine relevant laws.

Article 8

In order to safeguard national security effectively, the law enforcement and judicial authorities of the Hong Kong Special Administrative Region shall fully enforce this Law and the laws in force in the Region concerning the prevention of, suppression of, and imposition of punishment for acts and activities endangering national security.

Article 9

The Hong Kong Special Administrative Region shall strengthen its work on safeguarding national security and prevention of terrorist activities. The Government of the Hong Kong Special Administrative Region shall take necessary measures to strengthen public communication, guidance, supervision and regulation over matters concerning national security, including those relating to schools, universities, social organisations, the media, and the internet.

Article 10

The Hong Kong Special Administrative Region shall promote national security education in schools and universities and through social organisations, the media, the internet and other means to raise the awareness of Hong Kong residents of national security and of the obligation to abide by the law.

Article 11

The Chief Executive of the Hong Kong Special Administrative Region shall be accountable to the Central People's Government for affairs relating to safeguarding national security in the Hong Kong Special Administrative Region and shall submit an annual report on the performance of duties of the Region in safeguarding national security.

The Chief Executive shall, at the request of the Central People's Government, submit in a timely manner a report on specific matters relating to safeguarding national security.

Part 2: Government Bodies

Article 12

The Hong Kong Special Administrative Region shall establish the Committee for Safeguarding National Security. The Committee shall be responsible for affairs relating to and assume primary responsibility for safeguarding national security in the Region. It shall be under the supervision of and accountable to the Central People's Government.

Article 13

The Chief Executive shall be the chairperson of the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region. The other members of the Committee shall be the Chief Secretary for Administration, the Financial Secretary, the Secretary for Justice, the Secretary for Security, the Commissioner of Police, the head of the department for safeguarding national security of the Hong Kong Police Force established under Article 16 of this Law, the Director of Immigration, the Commissioner of Customs and Excise, and the Director of the Chief Executive's Office.

A secretariat headed by a Secretary-General shall be established under the Committee. The Secretary-General shall be appointed by the Central People's Government upon nomination by the Chief Executive.

Article 14

The duties and functions of the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region shall be:

- (1) analysing and assessing developments in relation to safeguarding national security in the Hong Kong Special Administrative Region, making work plans, and formulating policies for safeguarding national security in the Region;
- (2) advancing the development of the legal system and enforcement mechanisms of the Region for safeguarding national security; and
- (3) coordinating major work and significant operations for safeguarding national security in the Region.

No institution, organisation or individual in the Region shall interfere with the work of the Committee. Information relating to the work of the Committee shall not be subject to disclosure. Decisions made by the Committee shall not be amenable to judicial review.

Article 15

The Committee for Safeguarding National Security of the Hong Kong Special Administrative Region shall have a National Security Adviser, who shall be designated by the Central People's Government and provide advice on matters relating to the duties and functions of the Committee. The National Security Adviser shall sit in on meetings of the Committee.

Article 16

The Police Force of the Hong Kong Special Administrative Region shall establish a department for safeguarding national security with law enforcement capacity.

The head of the department for safeguarding national security of the Hong Kong Police Force shall be appointed by the Chief Executive. The Chief Executive shall seek in writing the opinion of the Office established under Article 48 of this Law before making the appointment. When assuming office, the head of the department for safeguarding national security of the Hong Kong Police Force shall swear to uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China, and swear to abide by the law and to observe the obligation of secrecy.

The department for safeguarding national security of the Hong Kong Police Force may recruit qualified professionals and technical personnel from outside the Hong Kong Special Administrative Region to provide assistance in the performance of duties for safeguarding national security.

Article 17

The duties and functions of the department for safeguarding national security of the Hong Kong Police Force shall be:

- (1) collecting and analysing intelligence and information concerning national security;
- (2) planning, coordinating and enforcing measures and operations for safeguarding national security;
- (3) investigating offences endangering national security;
- (4) conducting counter-interference investigation and national security review;
- (5) carrying out tasks of safeguarding national security assigned by the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region; and
- (6) performing other duties and functions necessary for the enforcement of this Law.

Article 18

The Department of Justice of the Hong Kong Special Administrative Region shall establish a specialised prosecution division responsible for the prosecution of offences endangering national security and other related legal work. The prosecutors of this division shall be appointed by the Secretary for Justice after obtaining the consent of the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region.

The head of the specialised prosecution division of the Department of Justice shall be appointed by the Chief Executive, who shall seek in writing the opinion of the Office established under Article 48 of this Law before making the appointment. When assuming office, the head of the specialised prosecution division shall swear to uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China, and swear to abide by the law and to observe the obligation of secrecy.

Article 19

The Financial Secretary of the Hong Kong Special Administrative Region shall, upon approval of the Chief Executive, appropriate from the general revenue a special fund to meet the expenditure for safeguarding national security and approve the establishment of relevant posts, which are not subject to any restrictions in the relevant provisions of the laws in force in the Region. The Financial Secretary shall submit an annual report on the control and management of the fund for this purpose to the Legislative Council of the Hong Kong Special Administrative Region.

CHAPTER III: OFFENCES AND PENALTIES

Part 1: Secession

Article 20

A person who organises, plans, commits or participates in any of the following acts, whether or not by force or threat of force, with a view to committing secession or undermining national unification shall be guilty of an offence:

- (1) separating the Hong Kong Special Administrative Region or any other part of the People's Republic of China from the People's Republic of China;
- (2) altering by unlawful means the legal status of the Hong Kong Special Administrative Region or of any other part of the People's Republic of China; or
- (3) surrendering the Hong Kong Special Administrative Region or any other part of the People's Republic of China to a foreign country.

A person who is a principal offender or a person who commits an offence of a grave nature shall be sentenced to life imprisonment or fixed-term imprisonment of not less than ten years; a person who actively participates in the offence shall be sentenced to fixed-term imprisonment of not less than three years but not more than ten years; and other participants shall be sentenced to fixed-term imprisonment of not more than three years, short-term detention or restriction.

Article 21

A person who incites, assists in, abets or provides pecuniary or other financial assistance or property for the commission by other persons of the offence under Article 20 of this Law shall be guilty of an offence. If the circumstances of the offence committed by a person are of a serious nature, the person shall be sentenced to fixed-term imprisonment of not less than five years but not more than ten years; if the circumstances of the offence committed by a person are of a minor nature, the person shall be sentenced to fixed-term imprisonment of not more than five years, short-term detention or restriction.

Part 2: Subversion

Article 22

A person who organises, plans, commits or participates in any of the following acts by force or threat of force or other unlawful means with a view to subverting the State power shall be guilty of an offence:

- (1) overthrowing or undermining the basic system of the People's Republic of China established by the Constitution of the People's Republic of China;
- (2) overthrowing the body of central power of the People's Republic of China or the body of power of the Hong Kong Special Administrative Region;
- (3) seriously interfering in, disrupting, or undermining the performance of duties and functions in accordance with the law by the body of central power of the People's Republic of China or the body of power of the Hong Kong Special Administrative Region; or
- (4) attacking or damaging the premises and facilities used by the body of power of the Hong Kong Special Administrative Region to perform its duties and functions, rendering it incapable of performing its normal duties and functions.

A person who is a principal offender or a person who commits an offence of a grave nature shall be sentenced to life imprisonment or fixed-term imprisonment of not less than ten years; a person who actively participates in the offence shall be sentenced to fixed-term imprisonment of not less than three years but not more than ten years; and other participants shall be sentenced to fixed-term imprisonment of not more than three years, short-term detention or restriction.

Article 23

A person who incites, assists in, abets or provides pecuniary or other financial assistance or property for the commission by other persons of the offence under Article 22 of this Law shall be guilty of an offence. If the circumstances of the offence committed by a person are of a serious nature, the person shall be sentenced to fixed-term imprisonment of not less than five years but not more than ten years; if the circumstances of the offence committed by a person are of a minor nature, the person shall be sentenced to fixed-term imprisonment of not more than five years, short-term detention or restriction.

Part 3: Terrorist Activities

Article 24

A person who organises, plans, commits, participates in or threatens to commit any of the following terrorist activities causing or intended to cause grave harm to the society with a view to coercing the Central People's Government, the Government of the Hong Kong Special Administrative Region or an international organisation or intimidating the public in order to pursue political agenda shall be guilty of an offence:

- (1) serious violence against a person or persons;
- (2) explosion, arson, or dissemination of poisonous or radioactive substances, pathogens of infectious diseases or other substances;
- (3) sabotage of means of transport, transport facilities, electric power or gas facilities, or other combustible or explosible facilities;
- (4) serious interruption or sabotage of electronic control systems for providing and managing public services such as water, electric power, gas, transport, telecommunications and the internet; or
- (5) other dangerous activities which seriously jeopardise public health, safety or security.

A person who commits the offence causing serious bodily injury, death or significant loss of public or private property shall be sentenced to life imprisonment or fixed-term imprisonment of not less than ten years; in other circumstances, a person who commits the offence shall be sentenced to fixed-term imprisonment of not less than three years but not more than ten years.

Article 25

A person who organises or takes charge of a terrorist organisation shall be guilty of an offence and shall be sentenced to life imprisonment or fixed-term imprisonment of not less than ten years, and shall be subject to confiscation of property; a person who actively participates in a terrorist organisation shall be sentenced to fixed-term imprisonment of not less than three years but not more than ten years and shall be imposed with a criminal fine; and other participants shall be sentenced to fixed-term imprisonment of not more than three years, short-term detention or restriction, and shall be liable to a criminal fine.

For the purpose of this Law, a terrorist organisation means an organisation which commits or intends to commit the offence under Article 24 of this Law or participates or assists in the commission of the offence.

Article 26

A person who provides support, assistance or facility such as training, weapons, information, funds, supplies, labour, transport, technologies or venues to a terrorist organisation or a terrorist, or for the commission of a terrorist activity; or manufactures or illegally possesses substances such as explosive, poisonous or radioactive substances and pathogens of infectious diseases or uses other means to prepare for the commission of a terrorist activity, shall be guilty of an offence. If the circumstances of the offence committed by a person are of a serious nature, the person shall be sentenced to fixed-term imprisonment of not less than five years but not more than ten years, and shall be imposed with a criminal fine or subject to confiscation of property; in other circumstances, a person shall be sentenced to fixed-term imprisonment of not more than five years, short-term detention or restriction, and shall be imposed with a criminal fine.

If the act referred to in the preceding paragraph also constitutes other offences, the person who commits the act shall be convicted and sentenced for the offence that carries a more severe penalty.

Article 27

A person who advocates terrorism or incites the commission of a terrorist activity shall be guilty of an offence. If the circumstances of the offence committed by a person are of a serious nature, the person shall be sentenced to fixed-term imprisonment of not less than five years but not more than ten years, and shall be imposed with a criminal fine or subject to confiscation of property; in other circumstances, a person shall be sentenced to fixed-term imprisonment of not more than five years, short-term detention or restriction, and shall be imposed with a criminal fine.

Article 28

The provisions of this Part shall not affect the prosecution of terrorist offences committed in other forms or the imposition of other measures such as freezing of property in accordance with the laws of the Hong Kong Special Administrative Region.

Part 4: Collusion with a Foreign Country or with External Elements to Endanger National Security

Article 29

A person who steals, spies, obtains with payment, or unlawfully provides State secrets or intelligence concerning national security for a foreign country or an institution, organisation or individual outside the mainland, Hong Kong and Macao of the People's Republic of China shall be guilty of an offence; a person who requests a foreign country or an institution, organisation or individual outside the mainland, Hong Kong and Macao of the People's Republic of China, or conspires with a foreign country or an institution, organisation or individual outside the mainland, Hong Kong and Macao of the People's Republic of China, or directly or indirectly receives instructions, control, funding or other kinds of support from a foreign country or an institution, organisation or individual outside the mainland, Hong Kong and Macao of the People's Republic of China, to commit any of the following acts shall be guilty of an offence:

- (1) waging a war against the People's Republic of China, or using or threatening to use force to seriously undermine the sovereignty, unification and territorial integrity of the People's Republic of China;
- (2) seriously disrupting the formulation and implementation of laws or policies by the Government of the Hong Kong Special Administrative Region or by the Central People's Government, which is likely to cause serious consequences;
- (3) rigging or undermining an election in the Hong Kong Special Administrative Region, which is likely to cause serious consequences;
- (4) imposing sanctions or blockade, or engaging in other hostile activities against the Hong Kong Special Administrative Region or the People's Republic of China; or
- (5) provoking by unlawful means hatred among Hong Kong residents towards the Central People's Government or the Government of the Region, which is likely to cause serious consequences.

A person who commits the offence shall be sentenced to fixed-term imprisonment of not less than three years but not more than ten years; a person who commits an offence of a grave nature shall be sentenced to life imprisonment or fixed-term imprisonment of not less than ten years.

The institution, organisation and individual outside the mainland, Hong Kong and Macao of the People's Republic of China referred to in the first paragraph of this Article shall be convicted and punished for the same offence.

Article 30

A person who conspires with or directly or indirectly receives instructions, control, funding or other kinds of support from a foreign country or an institution, organisation, or individual outside the mainland, Hong Kong and Macao of the People's Republic of China to commit the offences under Article 20 or 22 of this Law shall be liable to a more severe penalty in accordance with the provisions therein respectively.

Part 5: Other Provisions on Penalty

Article 31

An incorporated or unincorporated body such as a company or an organisation which commits an offence under this Law shall be imposed with a criminal fine.

The operation of an incorporated or unincorporated body such as a company or an organisation shall be suspended or its licence or business permit shall be revoked if the body has been punished for committing an offence under this Law.

Article 32

Proceeds obtained from the commission of an offence under this Law including financial aid, gains and rewards, and funds and tools used or intended to be used in the commission of the offence shall be seized and confiscated.

Article 33

A lighter penalty may be imposed, or the penalty may be reduced or, in the case of a minor offence, exempted, if an offender, criminal suspect, or defendant:

- (1) in the process of committing an offence, voluntarily discontinues the commission of the offence or voluntarily and effectively forestalls its consequences;
- (2) voluntarily surrenders himself or herself and gives a truthful account of the offence; or
- (3) reports on the offence committed by other person, which is verified to be true, or provides material information which assists in solving other criminal case.

Sub-paragraph (2) of the preceding paragraph shall apply to a criminal suspect or defendant who is subjected to mandatory measures and provides a truthful account of other offences committed by him or her under this Law which are unknown to the law enforcement or judicial authorities.

Article 34

A person who is not a permanent resident of the Hong Kong Special Administrative Region may be subject to deportation as the sole or an additional punishment if he or she commits an offence under this Law.

A person who is not a permanent resident of the Region may be subject to deportation if he or she contravenes the provisions of this Law but is not prosecuted for any reason.

Article 35

A person who is convicted of an offence endangering national security by a court shall be disqualified from standing as a candidate in the elections of the Legislative Council and district councils of the Hong Kong Special Administrative Region, holding any public office in the Region, or serving as a member of the Election Committee for electing the Chief Executive. If a person so convicted is a member of the Legislative Council, a government official, a public servant, a member of the Executive Council, a judge or a judicial officer, or a member of the district councils, who has taken an oath or made a declaration to uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China, he or she shall be removed from his or her office upon conviction, and shall be disqualified from standing for the aforementioned elections or from holding any of the aforementioned posts.

The disqualification and removal from offices referred to in the preceding paragraph shall be announced by the authorities responsible for organising and managing the relevant elections or for the appointment and removal of

holders of public office.

Part 6: Scope of Application

Article 36

This Law shall apply to offences under this Law which are committed in the Hong Kong Special Administrative Region by any person. An offence shall be deemed to have been committed in the Region if an act constituting the offence or the consequence of the offence occurs in the Region.

This Law shall also apply to offences under this Law committed on board a vessel or aircraft registered in the Region.

Article 37

This Law shall apply to a person who is a permanent resident of the Hong Kong Special Administrative Region or an incorporated or unincorporated body such as a company or an organisation which is set up in the Region if the person or the body commits an offence under this Law outside the Region.

Article 38

This Law shall apply to offences under this Law committed against the Hong Kong Special Administrative Region from outside the Region by a person who is not a permanent resident of the Region.

Article 39

This Law shall apply to acts committed after its entry into force for the purpose of conviction and imposition of punishment.

CHAPTER IV: JURISDICTION, APPLICABLE LAW AND PROCEDURE

Article 40

The Hong Kong Special Administrative Region shall have jurisdiction over cases concerning offences under this Law, except under the circumstances specified in Article 55 of this Law.

Article 41

This Law and the laws of the Hong Kong Special Administrative Region shall apply to procedural matters, including those related to criminal investigation, prosecution, trial, and execution of penalty, in respect of cases concerning offence endangering national security over which the Region exercises jurisdiction.

No prosecution shall be instituted in respect of an offence endangering national security without the written consent of the Secretary for Justice. This provision shall not prejudice the arrest and detention of a person who is suspected of having committed the offence or the application for bail by the person in accordance with the law.

Cases concerning offence endangering national security within the jurisdiction of the Hong Kong Special Administrative Region shall be tried on indictment.

The trial shall be conducted in an open court. When circumstances arise such as the trial involving State secrets or public order, all or part of the trial shall be closed to the media and the public but the judgment shall be delivered in an open court.

Article 42

When applying the laws in force in the Hong Kong Special Administrative Region concerning matters such as the detention and time limit for trial, the law enforcement and judicial authorities of the Region shall ensure that cases concerning offence endangering national security are handled in a fair and timely manner so as to effectively prevent, suppress and impose punishment for such offence.

No bail shall be granted to a criminal suspect or defendant unless the judge has sufficient grounds for believing that the criminal suspect or defendant will not continue to commit acts endangering national security.

Article 43

When handling cases concerning offence endangering national security, the department for safeguarding national security of the Police Force of the Hong Kong Special Administrative Region may take measures that law

enforcement authorities, including the Hong Kong Police Force, are allowed to apply under the laws in force in the Hong Kong Special Administrative Region in investigating serious crimes, and may also take the following measures:

- (1) search of premises, vehicles, vessels, aircraft and other relevant places and electronic devices that may contain evidence of an offence;
- (2) ordering any person suspected of having committed an offence endangering national security to surrender travel documents, or prohibiting the person concerned from leaving the Region;
- (3) freezing of, applying for restraint order, charging order and confiscation order in respect of, and forfeiture of property used or intended to be used for the commission of the offence, proceeds of crime, or other property relating to the commission of the offence;
- (4) requiring a person who published information or the relevant service provider to delete the information or provide assistance;
- (5) requiring a political organisation of a foreign country or outside the mainland, Hong Kong and Macao of the People's Republic of China, or an agent of authorities or a political organisation of a foreign country or outside the mainland, Hong Kong and Macao of the People's Republic of China, to provide information;
- (6) upon approval of the Chief Executive, carrying out interception of communications and conducting covert surveillance on a person who is suspected, on reasonable grounds, of having involved in the commission of an offence endangering national security; and
- (7) requiring a person, who is suspected, on reasonable grounds, of having in possession information or material relevant to investigation, to answer questions and furnish such information or produce such material.

The Committee for Safeguarding National Security of the Hong Kong Special Administrative Region shall be responsible for supervising the implementation of the measures stipulated in the first paragraph of this Article by law enforcement authorities including the department for safeguarding national security of the Hong Kong Police Force.

The Chief Executive shall be authorised, in conjunction with the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region, to make relevant implementation rules for the purpose of applying the measures under the first paragraph of this Article.

Article 44

The Chief Executive shall designate a number of judges from the magistrates, the judges of the District Court, the judges of the Court of First Instance and the Court of Appeal of the High Court, and the judges of the Court of Final Appeal, and may also designate a number of judges from deputy judges or recorders, to handle cases concerning offence endangering national security. Before making such designation, the Chief Executive may consult the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region and the Chief Justice of the Court of Final Appeal. The term of office of the aforementioned designated judges shall be one year.

A person shall not be designated as a judge to adjudicate a case concerning offence endangering national security if he or she has made any statement or behaved in any manner endangering national security. A designated judge shall be removed from the designation list if he or she makes any statement or behaves in any manner endangering national security during the term of office.

The proceedings in relation to the prosecution for offences endangering national security in the magistrates' courts, the District Court, the High Court and the Court of Final Appeal shall be handled by the designated judges in the respective courts.

Article 45

Unless otherwise provided by this Law, magistrates' courts, the District Court, the High Court and the Court of Final Appeal shall handle proceedings in relation to the prosecution for offences endangering national security in accordance with the laws of the Hong Kong Special Administrative Region.

Article 46

In criminal proceedings in the Court of First Instance of the High Court concerning offences endangering national security, the Secretary for Justice may issue a certificate directing that the case shall be tried without a jury on the grounds of, among others, the protection of State secrets, involvement of foreign factors in the case, and the protection of personal safety of jurors and their family members. Where the Secretary for Justice has issued the certificate, the case shall be tried in the Court of First Instance without a jury by a panel of three judges.

Where the Secretary for Justice has issued the certificate, the reference to “a jury” or “a verdict of the jury” in any provision of the laws of the Hong Kong Special Administrative Region applicable to the related proceedings shall be construed as referring to the judges or the functions of the judge as a judge of fact.

Article 47

The courts of the Hong Kong Special Administrative Region shall obtain a certificate from the Chief Executive to certify whether an act involves national security or whether the relevant evidence involves State secrets when such questions arise in the adjudication of a case. The certificate shall be binding on the courts.

CHAPTER V: OFFICE FOR SAFEGUARDING NATIONAL SECURITY OF THE CENTRAL PEOPLE’S GOVERNMENT IN THE HONG KONG SPECIAL ADMINISTRATIVE REGION

Article 48

The Central People’s Government shall establish in the Hong Kong Special Administrative Region an office for safeguarding national security. The Office for Safeguarding National Security of the Central People’s Government in the Hong Kong Special Administrative Region shall perform its mandate for safeguarding national security and exercise relevant powers in accordance with the law.

The staff of the Office shall be jointly dispatched by relevant national security authorities under the Central People’s Government.

Article 49

The Office for Safeguarding National Security of the Central People’s Government in the Hong Kong Special Administrative Region shall perform the following mandate:

- (1) analysing and assessing developments in relation to safeguarding national security in the Hong Kong Special Administrative Region, and providing opinions and making proposals on major strategies and important policies for safeguarding national security;
- (2) overseeing, guiding, coordinating with, and providing support to the Region in the performance of its duties for safeguarding national security;
- (3) collecting and analysing intelligence and information concerning national security; and
- (4) handling cases concerning offence endangering national security in accordance with the law.

Article 50

The Office for Safeguarding National Security of the Central People’s Government in the Hong Kong Special Administrative Region shall perform its mandate in strict compliance with the law and be subject to supervision in accordance with the law. It shall not infringe upon the lawful rights and interests of any individual or organisation.

The staff of the Office shall abide by the laws of the Hong Kong Special Administrative Region as well as national laws.

The staff of the Office shall be subject to the supervision of the national supervisory authorities in accordance with the law.

Article 51

The Office for Safeguarding National Security of the Central People’s Government in the Hong Kong Special Administrative Region shall be funded by the Central People’s Government.

Article 52

The Office for Safeguarding National Security of the Central People’s Government in the Hong Kong Special Administrative Region shall strengthen working relations and cooperation with the Liaison Office of the Central People’s Government in the Hong Kong Special Administrative Region, the Office of the Commissioner of the Ministry of Foreign Affairs in the Hong Kong Special Administrative Region, and the Hong Kong Garrison of the Chinese People’s Liberation Army.

Article 53

The Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region shall establish a mechanism of coordination with the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region to oversee and provide guidance on the work of the Hong Kong Special Administrative Region for safeguarding national security.

The working departments of the Office shall establish mechanisms for collaboration with the relevant authorities of the Region responsible for safeguarding national security to enhance information sharing and operations coordination.

Article 54

The Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region and the Office of the Commissioner of the Ministry of Foreign Affairs in the Hong Kong Special Administrative Region shall, together with the Government of the Hong Kong Special Administrative Region, take necessary measures to strengthen the management of and services for organs of foreign countries and international organisations in the Region, as well as non-governmental organisations and news agencies of foreign countries and from outside the mainland, Hong Kong, and Macao of the People's Republic of China in the Region.

Article 55

The Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region shall, upon approval by the Central People's Government of a request made by the Government of the Hong Kong Special Administrative Region or by the Office itself, exercise jurisdiction over a case concerning offence endangering national security under this Law, if:

- (1) the case is complex due to the involvement of a foreign country or external elements, thus making it difficult for the Region to exercise jurisdiction over the case;
- (2) a serious situation occurs where the Government of the Region is unable to effectively enforce this Law; or
- (3) a major and imminent threat to national security has occurred.

Article 56

In exercising jurisdiction over a case concerning offence endangering national security pursuant to Article 55 of this Law, the Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region shall initiate investigation into the case, the Supreme People's Procuratorate shall designate a prosecuting body to prosecute it, and the Supreme People's Court shall designate a court to adjudicate it.

Article 57

The Criminal Procedure Law of the People's Republic of China and other related national laws shall apply to procedural matters, including those related to criminal investigation, examination and prosecution, trial, and execution of penalty, in respect of cases over which jurisdiction is exercised pursuant to Article 55 of this Law.

When exercising jurisdiction over cases pursuant to Article 55 of this Law, the law enforcement and judicial authorities referred to in Article 56 of this Law shall exercise powers in accordance with the law. The legal documents issued by these authorities on their decisions to take mandatory and investigation measures and on their judicial decisions shall have legal force in the Hong Kong Special Administrative Region. The institutions, organisations and individuals concerned must comply with measures taken by the Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region in accordance with the law.

Article 58

In a case over which jurisdiction is exercised pursuant to Article 55 of this Law, a criminal suspect shall have the right to retain a lawyer to represent him or her from the day he or she first receives inquiry made by the Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region or from the day a mandatory measure is taken against him or her. A defence lawyer may provide legal assistance to a criminal suspect or defendant in accordance with the law.

A criminal suspect or defendant who is arrested in accordance with the law shall be entitled to a fair trial before a judicial body without undue delay.

Article 59

In a case over which jurisdiction is exercised pursuant to Article 55 of this Law, any person who has information pertaining to an offence endangering national security under this Law is obliged to testify truthfully.

Article 60

The acts performed in the course of duty by the Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region and its staff in accordance with this Law shall not be subject to the jurisdiction of the Hong Kong Special Administrative Region.

In the course of performing duty, a holder of an identification document or a document of certification issued by the Office and the articles including vehicles used by the holder shall not be subject to inspection, search or detention by law enforcement officers of the Region.

The Office and its staff shall enjoy other rights and immunities provided by laws of the Region.

Article 61

The relevant departments of the Government of the Hong Kong Special Administrative Region shall provide necessary facilitation and support to the Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region in performing its mandate in accordance with this Law, and shall stop any act obstructing the performance of such mandate and hold those who commit such act liable in accordance with the law.

CHAPTER VI: SUPPLEMENTARY PROVISIONS

Article 62

This Law shall prevail where provisions of the local laws of the Hong Kong Special Administrative Region are inconsistent with this Law.

Article 63

The law enforcement and judicial authorities and their staff who handle cases concerning offence endangering national security under this Law, or the law enforcement and judicial authorities of the Hong Kong Special Administrative Region and their staff who handle other cases concerning offence endangering national security, shall keep confidential State secrets, trade secrets or personal information which they come to know in the process of handling such cases.

A lawyer who serves as defence counsel or legal representative shall keep confidential State secrets, trade secrets or personal information which he or she comes to know in the practice of law.

The relevant institutions, organisations and individuals who assist with the handling of a case shall keep confidential any information pertaining to the case.

Article 64

In the application of this Law in the Hong Kong Special Administrative Region, the terms "fixed-term imprisonment", "life imprisonment", "confiscation of property" and "criminal fine" in this Law respectively mean "imprisonment", "imprisonment for life", "confiscation of proceeds of crime" and "fine"; "short-term detention" shall be construed, with reference to the relevant laws of the Region, as "imprisonment", "detention in a detention centre" or "detention in a training centre"; "restriction" shall be construed, with reference to the relevant laws of the Region, as "community service" or "detention in a reformatory school"; and "revoke licence or business permit" means "revoke registration or exemption from registration, or revoke licence" as provided for in the relevant laws of the Region.

Article 65

The power of interpretation of this Law shall be vested in the Standing Committee of the National People's Congress.

Article 66

This Law shall come into force on the date of its promulgation.

《中華人民共和國香港特別行政區維護國家安全法》

【第一章 總則】

- 第一條 為堅定不移並全面準確貫徹「一國兩制」、「港人治港」、高度自治的方針，維護國家安全，防範、制止和懲治與香港特別行政區有關的分裂國家、顛覆國家政權、組織實施恐怖活動和勾結外國或者境外勢力危害國家安全等犯罪，保持香港特別行政區的繁榮和穩定，保障香港特別行政區居民的合法權益，根據中華人民共和國憲法、中華人民共和國香港特別行政區基本法和全國人民代表大會關於建立健全香港特別行政區維護國家安全的法律制度和執行機制的決定，制定本法。
- 第二條 關於香港特別行政區法律地位的香港特別行政區基本法第一條和第十二條規定是香港特別行政區基本法的根本性條款。香港特別行政區任何機構、組織和個人行使權利和自由，不得違背香港特別行政區基本法第一條和第十二條的規定。
- 第三條 中央人民政府對香港特別行政區有關的國家安全事務負有根本責任。
香港特別行政區負有維護國家安全的憲制責任，應當履行維護國家安全的職責。
香港特別行政區行政機關、立法機關、司法機關應當依據本法和其他有關法律規定有效防範、制止和懲治危害國家安全的行為和活動。
- 第四條 香港特別行政區維護國家安全應當尊重和保障人權，依法保護香港特別行政區居民根據香港特別行政區基本法和《公民權利和政治權利國際公約》、《經濟、社會與文化權利的國際公約》適用於香港的有關規定享有的包括言論、新聞、出版的自由，結社、集會、遊行、示威的自由在內的權利和自由。
- 第五條 防範、制止和懲治危害國家安全犯罪，應當堅持法治原則。法律規定為犯罪行為的，依照法律定罪處刑；法律沒有規定為犯罪行為的，不得定罪處刑。
任何人未經司法機關判罪之前均假定無罪。保障犯罪嫌疑人、被告人和其他訴訟參與人依法享有的辯護權和其他訴訟權利。任何人已經司法程序被最終確定有罪或者宣告無罪的，不得就同一行為再予審判或者懲罰。
- 第六條 維護國家主權、統一和領土完整是包括香港同胞在內的全中國人民的共同義務。
在香港特別行政區的任何機構、組織和個人都應當遵守本法和香港特別行政區有關維護國家安全的其他法律，不得從事危害國家安全的行為和活動。
香港特別行政區居民在參選或者就任公職時應當依法簽署文件確認或者宣誓擁護中華人民共和國香港特別行政區基本法，效忠中華人民共和國香港特別行政區。

【第二章 香港特別行政區維護國家安全的職責和機構】

●第一節 職責

- 第七條 香港特別行政區應當盡早完成香港特別行政區基本法規定的維護國家安全立法，完善相關法律。
- 第八條 香港特別行政區執法、司法機關應當切實執行本法和香港特別行政區現行法律有關防範、制止和懲治危害國家安全行為和活動的規定，有效維護國家安全。
- 第九條 香港特別行政區應當加強維護國家安全和防範恐怖活動的工作。對學校、社會團體、媒體、網絡等涉及國家安全的事宜，香港特別行政區政府應當採取必要措施，加強宣傳、指導、監督和管理。
- 第十條 香港特別行政區應當通過學校、社會團體、媒體、網絡等開展國家安全教育，提高香港特別行政區居民的國家安全意識和守法意識。
- 第十一條 香港特別行政區行政長官應當就香港特別行政區維護國家安全事務向中央人民政府負責，並就香港特別行政區履行維護國家安全職責的情況提交年度報告。
如中央人民政府提出要求，行政長官應當就維護國家安全特定事項及時提交報告。

●第二節 機構

- 第十二條 香港特別行政區設立維護國家安全委員會，負責香港特別行政區維護國家安全事務，承擔維護國家安全的主要責任，並接受中央人民政府的監督和問責。

- 第十三條 香港特別行政區維護國家安全委員會由行政長官擔任主席，成員包括政務司長、財政司長、律政司長、保安局長、警務處長、本法第十六條規定的警務處維護國家安全部門的負責人、入境事務處長、海關關長和行政長官辦公室主任。
香港特別行政區維護國家安全委員會下設秘書處，由秘書長領導。秘書長由行政長官提名，報中央人民政府任命。
- 第十四條 香港特別行政區維護國家安全委員會的職責為：
（一）分析研判香港特別行政區維護國家安全形勢，規劃有關工作，制定香港特別行政區維護國家安全政策；
（二）推進香港特別行政區維護國家安全的法律制度和執行機制建設；
（三）協調香港特別行政區維護國家安全的重點工作和重大行動。
香港特別行政區維護國家安全委員會的工作不受香港特別行政區任何其他機構、組織和個人的干涉，工作信息不予公開。香港特別行政區維護國家安全委員會作出的決定不受司法覆核。
- 第十五條 香港特別行政區維護國家安全委員會設立國家安全事務顧問，由中央人民政府指派，就香港特別行政區維護國家安全委員會履行職責相關事務提供意見。國家安全事務顧問列席香港特別行政區維護國家安全委員會會議。
- 第十六條 香港特別行政區政府警務處設立維護國家安全的部門，配備執法力量。
警務處維護國家安全部門負責人由行政長官任命，行政長官任命前須書面徵求本法第四十八條規定的機構的意見。警務處維護國家安全部門負責人在就職時應當宣誓擁護中華人民共和國香港特別行政區基本法，效忠中華人民共和國香港特別行政區，遵守法律，保守秘密。
警務處維護國家安全部門可以從香港特別行政區以外聘請合格的專門人員和技術人員，協助執行維護國家安全相關任務。
- 第十七條 警務處維護國家安全部門的職責為：
（一）收集分析涉及國家安全的情報信息；
（二）部署、協調、推進維護國家安全的措施和行動；
（三）調查危害國家安全犯罪案件；
（四）進行反干預調查和開展國家安全審查；
（五）承辦香港特別行政區維護國家安全委員會交辦的維護國家安全工作；
（六）執行本法所需的其他職責。
- 第十八條 香港特別行政區律政司設立專門的國家安全犯罪案件檢控部門，負責危害國家安全犯罪案件的檢控工作和其他相關法律事務。該部門檢控官由律政司長徵得香港特別行政區維護國家安全委員會同意後任命。
律政司國家安全犯罪案件檢控部門負責人由行政長官任命，行政長官任命前須書面徵求本法第四十八條規定的機構的意見。律政司國家安全犯罪案件檢控部門負責人在就職時應當宣誓擁護中華人民共和國香港特別行政區基本法，效忠中華人民共和國香港特別行政區，遵守法律，保守秘密。
- 第十九條 經行政長官批准，香港特別行政區政府財政司長應當從政府一般收入中撥出專門款項支付關於維護國家安全的開支並核准所涉及的人員編制，不受香港特別行政區現行有關法律規定的限制。財政司長須每年就該款項的控制和管理向立法會提交報告。

【第三章 罪行和處罰】

●第一節 分裂國家罪

- 第二十條 任何人組織、策劃、實施或者參與實施以下旨在分裂國家、破壞國家統一行為之一的，不論是否使用武力或者以武力相威脅，即屬犯罪：
（一）將香港特別行政區或者中華人民共和國其他任何部分從中華人民共和國分離出去；
（二）非法改變香港特別行政區或者中華人民共和國其他任何部分的法律地位；
（三）將香港特別行政區或者中華人民共和國其他任何部分轉歸外國統治。
犯前款罪，對首要分子或者罪行重大的，處無期徒刑或者十年以上有期徒刑；對積極參加的，處三年以上十年以下有期徒刑；對其他參加的，處三年以下有期徒刑、拘役或者管制。

第二十一條 任何人煽動、協助、教唆、以金錢或者其他財物資助他人實施本法第二十條規定的犯罪的，即屬犯罪。情節嚴重的，處五年以上十年以下有期徒刑；情節較輕的，處五年以下有期徒刑、拘役或者管制。

●第二節 顛覆國家政權罪

第二十二條 任何人組織、策劃、實施或者參與實施以下以武力、威脅使用武力或者其他非法手段旨在顛覆國家政權行為之一的，即屬犯罪：

- (一) 推翻、破壞中華人民共和國憲法所確立的中華人民共和國根本制度；
- (二) 推翻中華人民共和國中央政權機關或者香港特別行政區政權機關；
- (三) 嚴重干擾、阻撓、破壞中華人民共和國中央政權機關或者香港特別行政區政權機關依法履行職能；
- (四) 攻擊、破壞香港特別行政區政權機關履職場所及其設施，致使其無法正常履行職能。

犯前款罪，對首要分子或者罪行重大的，處無期徒刑或者十年以上有期徒刑；對積極參加的，處三年以上十年以下有期徒刑；對其他參加的，處三年以下有期徒刑、拘役或者管制。

第二十三條 任何人煽動、協助、教唆、以金錢或者其他財物資助他人實施本法第二十二條規定的犯罪的，即屬犯罪。情節嚴重的，處五年以上十年以下有期徒刑；情節較輕的，處五年以下有期徒刑、拘役或者管制。

●第三節 恐怖活動罪

第二十四條 為脅迫中央人民政府、香港特別行政區政府或者國際組織或者威嚇公眾以圖實現政治主張，組織、策劃、實施、參與實施或者威脅實施以下造成或者意圖造成嚴重社會危害的恐怖活動之一的，即屬犯罪：

- (一) 針對人的嚴重暴力；
- (二) 爆炸、縱火或者投放毒害性、放射性、傳染病原體等物質；
- (三) 破壞交通工具、交通設施、電力設備、燃氣設備或者其他易燃易爆設備；
- (四) 嚴重干擾、破壞水、電、燃氣、交通、通訊、網絡等公共服務和管理的電子控制系統；
- (五) 以其他危險方法嚴重危害公眾健康或者安全。

犯前款罪，致人重傷、死亡或者使公私財產遭受重大損失的，處無期徒刑或者十年以上有期徒刑；其他情形，處三年以上十年以下有期徒刑。

第二十五條 組織、領導恐怖活動組織的，即屬犯罪，處無期徒刑或者十年以上有期徒刑，並處沒收財產；積極參加的，處三年以上十年以下有期徒刑，並處罰金；其他參加的，處三年以下有期徒刑、拘役或者管制，可以並處罰金。

本法所指的恐怖活動組織，是指實施或者意圖實施本法第二十四條規定的恐怖活動罪行或者參與或者協助實施本法第二十四條規定的恐怖活動罪行的組織。

第二十六條 為恐怖活動組織、恐怖活動人員、恐怖活動實施提供培訓、武器、信息、資金、物資、勞務、運輸、技術或者場所等支持、協助、便利，或者製造、非法管有爆炸性、毒害性、放射性、傳染病原體等物質以及以其他形式準備實施恐怖活動的，即屬犯罪。情節嚴重的，處五年以上十年以下有期徒刑，並處罰金或者沒收財產；其他情形，處五年以下有期徒刑、拘役或者管制，並處罰金。

有前款行為，同時構成其他犯罪的，依照處罰較重的規定定罪處罰。

第二十七條 宣揚恐怖主義、煽動實施恐怖活動的，即屬犯罪。情節嚴重的，處五年以上十年以下有期徒刑，並處罰金或者沒收財產；其他情形，處五年以下有期徒刑、拘役或者管制，並處罰金。

第二十八條 本節規定不影響依據香港特別行政區法律對其他形式的恐怖活動犯罪追究刑事責任並採取凍結財產等措施。

●第四節 勾結外國或者境外勢力危害國家安全罪

第二十九條 為外國或者境外機構、組織、人員竊取、刺探、收買、非法提供涉及國家安全的國家秘密或者情報的；請求外國或者境外機構、組織、人員實施，與外國或者境外機構、組織、人員串謀實施，或者直接或者間接受外國或者境外機構、組織、人員的指使、控制、資助或者其他形式的支援實施以下行為之一的，均屬犯罪：

- (一) 對中華人民共和國發動戰爭，或者以武力或者武力相威脅，對中華人民共和國主權、統一和領土完整造成嚴重危害；
- (二) 對香港特別行政區政府或者中央人民政府制定和執行法律、政策進行嚴重阻撓並可能造成嚴重後果；
- (三) 對香港特別行政區選舉進行操控、破壞並可能造成嚴重後果；
- (四) 對香港特別行政區或者中華人民共和國進行制裁、封鎖或者採取其他敵對行動；
- (五) 通過各種非法方式引發香港特別行政區居民對中央人民政府或者香港特別行政區政府的憎恨並可能造成嚴重後果。

犯前款罪，處三年以上十年以下有期徒刑；罪行重大的，處無期徒刑或者十年以上有期徒刑。

本條第一款規定涉及的境外機構、組織、人員，按共同犯罪定罪處刑。

第三十條 為實施本法第二十條、第二十二條規定的犯罪，與外國或者境外機構、組織、人員串謀，或者直接或者間接受外國或者境外機構、組織、人員的指使、控制、資助或者其他形式的支援的，依照本法第二十條、第二十二條的規定從重處罰。

●第五節 其他處罰規定

第三十一條 公司、團體等法人或者非法人組織實施本法規定的犯罪的，對該組織判處罰金。

公司、團體等法人或者非法人組織因犯本法規定的罪行受到刑事處罰的，應責令其暫停運作或者吊銷其執照或者營業許可證。

第三十二條 因實施本法規定的犯罪而獲得的資助、收益、報酬等違法所得以及用於或者意圖用於犯罪的資金和工具，應當予以追繳、沒收。

第三十三條 有以下情形的，對有關犯罪行為人、犯罪嫌疑人、被告人可以從輕、減輕處罰；犯罪較輕的，可以免除處罰：

- (一) 在犯罪過程中，自動放棄犯罪或者自動有效地防止犯罪結果發生的；
- (二) 自動投案，如實供述自己的罪行的；
- (三) 揭發他人犯罪行為，查證屬實，或者提供重要線索得以偵破其他案件的。

被採取強制措施的犯罪嫌疑人、被告人如實供述執法、司法機關未掌握的本人犯有本法規定的其他罪行的，按前款第二項規定處理。

第三十四條 不具有香港特別行政區永久性居民身分的人實施本法規定的犯罪的，可以獨立適用或者附加適用驅逐出境。

不具有香港特別行政區永久性居民身分的人違反本法規定，因任何原因不對其追究刑事責任的，也可以驅逐出境。

第三十五條 任何人經法院判決犯危害國家安全罪行的，即喪失作為候選人參加香港特別行政區舉行的立法會、區議會選舉或者出任香港特別行政區任何公職或者行政長官選舉委員會委員的資格；曾經宣誓或者聲明擁護中華人民共和國香港特別行政區基本法、效忠中華人民共和國香港特別行政區的立法會議員、政府官員及公務人員、行政會議成員、法官及其他司法人員、區議員，即時喪失該等職務，並喪失參選或者出任上述職務的資格。

前款規定資格或者職務的喪失，由負責組織、管理有關選舉或者公職任免的機構宣布。

●第六節 效力範圍

第三十六條 任何人在香港特別行政區內實施本法規定的犯罪的，適用本法。犯罪的行為或者結果有一項發生在香港特別行政區內的，就認為是在香港特別行政區內犯罪。

在香港特別行政區註冊的船舶或者航空器內實施本法規定的犯罪的，也適用本法。

第三十七條 香港特別行政區永久性居民或者在香港特別行政區成立的公司、團體等法人或者非法人組織在香港特別行政區以外實施本法規定的犯罪的，適用本法。

第三十八條 不具有香港特別行政區永久性居民身分的人在香港特別行政區以外針對香港特別行政區實施本法規定的犯罪的，適用本法。

第三十九條 本法施行以後的行為，適用本法定罪處刑。

【第四章 案件管轄、法律適用和程序】

第四十條 香港特別行政區對本法規定的犯罪案件行使管轄權，但本法第五十五條規定的情形除外。

- 第四十一條 香港特別行政區管轄危害國家安全犯罪案件的立案偵查、檢控、審判和刑罰的執行等訴訟程序事宜，適用本法和香港特別行政區本地法律。
 未經律政司長書面同意，任何人不得就危害國家安全犯罪案件提出檢控。但該規定不影響就有關犯罪依法逮捕犯罪嫌疑人並將其羈押，也不影響該等犯罪嫌疑人申請保釋。
 香港特別行政區管轄的危害國家安全犯罪案件的審判循公訴程序進行。
 審判應當公開進行。因為涉及國家秘密、公共秩序等情形不宜公開審理的，禁止新聞界和公眾旁聽全部或者一部分審理程序，但判決結果應當一律公開宣布。
- 第四十二條 香港特別行政區執法、司法機關在適用香港特別行政區現行法律有關羈押、審理期限等方面的規定時，應當確保危害國家安全犯罪案件公正、及時辦理，有效防範、制止和懲治危害國家安全犯罪。
 對犯罪嫌疑人、被告人，除非法官有充足理由相信其不會繼續實施危害國家安全行為的，不得准予保釋。
- 第四十三條 香港特別行政區政府警務處維護國家安全部門辦理危害國家安全犯罪案件時，可以採取香港特別行政區現行法律准予警方等執法部門在調查嚴重犯罪案件時採取的各種措施，並可以採取以下措施：
 (一) 搜查可能存有犯罪證據的處所、車輛、船隻、航空器以及其他有關地方和電子設備；
 (二) 要求涉嫌實施危害國家安全犯罪行為的人員交出旅行證件或者限制其離境；
 (三) 對用於或者意圖用於犯罪的財產、因犯罪所得的收益等與犯罪相關的財產，予以凍結，申請限制令、押記令、沒收令以及充公；
 (四) 要求信息發布人或者有關服務商移除信息或者提供協助；
 (五) 要求外國及境外政治性組織，外國及境外當局或者政治性組織的代理人提供資料；
 (六) 經行政長官批准，對有合理理由懷疑涉及實施危害國家安全犯罪的人員進行截取通訊和秘密監察；
 (七) 對有合理理由懷疑擁有與偵查有關的資料或者管有有關物料的人員，要求其回答問題和提交資料或者物料。
 香港特別行政區維護國家安全委員會對警務處維護國家安全部門等執法機構採取本條第一款規定措施負有監督責任。
 授權香港特別行政區行政長官會同香港特別行政區維護國家安全委員會為採取本條第一款規定措施制定相關實施細則。
- 第四十四條 香港特別行政區行政長官應當從裁判官、區域法院法官、高等法院原訟法庭法官、上訴法庭法官以及終審法院法官中指定若干名法官，也可從暫委或者特委法官中指定若干名法官，負責處理危害國家安全犯罪案件。行政長官在指定法官前可徵詢香港特別行政區維護國家安全委員會和終審法院首席法官的意見。上述指定法官任期一年。
 凡有危害國家安全言行的，不得被指定為審理危害國家安全犯罪案件的法官。在獲任指定法官期間，如有危害國家安全言行的，終止其指定法官資格。
 在裁判法院、區域法院、高等法院和終審法院就危害國家安全犯罪案件提起的刑事檢控程序應當分別由各該法院的指定法官處理。
- 第四十五條 除本法另有規定外，裁判法院、區域法院、高等法院和終審法院應當按照香港特別行政區的其他法律處理就危害國家安全犯罪案件提起的刑事檢控程序。
- 第四十六條 對高等法院原訟法庭進行的就危害國家安全犯罪案件提起的刑事檢控程序，律政司長可基於保護國家秘密、案件具有涉外因素或者保障陪審員及其家人的人身安全等理由，發出證書指示相關訴訟毋須在有陪審團的情況下進行審理。凡律政司長發出上述證書，高等法院原訟法庭應當在沒有陪審團的情況下進行審理，並由三名法官組成審判庭。
 凡律政司長發出前款規定的證書，適用於相關訴訟的香港特別行政區任何法律條文關於「陪審團」或者「陪審團的裁決」，均應當理解為指法官或者法官作為事實裁斷者的職能。
- 第四十七條 香港特別行政區法院在審理案件中遇有涉及有關行為是否涉及國家安全或者有關證據材料是否涉及國家秘密的認定問題，應取得行政長官就該等問題發出的證明書，上述證明書對法院有約束力。

【第五章 中央人民政府駐香港特別行政區維護國家安全機構】

- 第四十八條 中央人民政府在香港特別行政區設立維護國家安全公署。中央人民政府駐香港特別行政區維護國家安全公署依法履行維護國家安全職責，行使相關權力。

- 駐香港特別行政區維護國家安全公署人員由中央人民政府維護國家安全的有關機關聯合派出。
- 第四十九條 駐香港特別行政區維護國家安全公署的職責為：
- （一）分析研判香港特別行政區維護國家安全形勢，就維護國家安全重大戰略和重要政策提出意見和建議；
- （二）監督、指導、協調、支持香港特別行政區履行維護國家安全的職責；
- （三）收集分析國家安全情報信息；
- （四）依法辦理危害國家安全犯罪案件。
- 第五十條 駐香港特別行政區維護國家安全公署應當嚴格依法履行職責，依法接受監督，不得侵害任何個人和組織的合法權益。
- 駐香港特別行政區維護國家安全公署人員除須遵守全國性法律外，還應當遵守香港特別行政區法律。
- 第五十一條 駐香港特別行政區維護國家安全公署人員依法接受國家監察機關的監督。
- 第五十二條 駐香港特別行政區維護國家安全公署應當加強與中央人民政府駐香港特別行政區聯絡辦公室、外交部駐香港特別行政區特派員公署、中國人民解放軍駐香港部隊的工作聯繫和工作協同。
- 第五十三條 駐香港特別行政區維護國家安全公署應當與香港特別行政區維護國家安全委員會建立協調機制，監督、指導香港特別行政區維護國家安全工作。
- 駐香港特別行政區維護國家安全公署的工作部門應當與香港特別行政區維護國家安全的有關機關建立協作機制，加強信息共享和行動配合。
- 第五十四條 駐香港特別行政區維護國家安全公署、外交部駐香港特別行政區特派員公署會同香港特別行政區政府採取必要措施，加強對外國和國際組織駐香港特別行政區機構、在香港特別行政區的外國和境外非政府組織和新聞機構的管理和服務。
- 第五十五條 有以下情形之一的，經香港特別行政區政府或者駐香港特別行政區維護國家安全公署提出，並報中央人民政府批准，由駐香港特別行政區維護國家安全公署對本法規定的危害國家安全犯罪案件行使管轄權：
- （一）案件涉及外國或者境外勢力介入的複雜情況，香港特別行政區管轄確有困難的；
- （二）出現香港特別行政區政府無法有效執行本法的嚴重情況的；
- （三）出現國家安全面臨重大現實威脅的情況的。
- 第五十六條 根據本法第五十五條規定管轄有關危害國家安全犯罪案件時，由駐香港特別行政區維護國家安全公署負責立案偵查，最高人民檢察院指定有關檢察機關行使檢察權，最高人民法院指定有關法院行使審判權。
- 第五十七條 根據本法第五十五條規定管轄案件的立案偵查、審查起訴、審判和刑罰的執行等訴訟程序事宜，適用《中華人民共和國刑事訴訟法》等相關法律的規定。
- 根據本法第五十五條規定管轄案件時，本法第五十六條規定的執法、司法機關依法行使相關權力，其為決定採取強制措施、偵查措施和司法裁判而簽發的法律文書在香港特別行政區具有法律效力。對於駐香港特別行政區維護國家安全公署依法採取的措施，有關機構、組織和個人必須遵從。
- 第五十八條 根據本法第五十五條規定管轄案件時，犯罪嫌疑人自被駐香港特別行政區維護國家安全公署第一次訊問或者採取強制措施之日起，有權委託律師作為辯護人。辯護律師可以依法為犯罪嫌疑人、被告人提供法律幫助。
- 犯罪嫌疑人、被告人被合法拘捕後，享有盡早接受司法機關公正審判的權利。
- 第五十九條 根據本法第五十五條規定管轄案件時，任何人如果知道本法規定的危害國家安全犯罪案件情況，都有如實作證的義務。
- 第六十條 駐香港特別行政區維護國家安全公署及其人員依據本法執行職務的行為，不受香港特別行政區管轄。
- 持有駐香港特別行政區維護國家安全公署制發的證件或者證明文件的人員和車輛等在執行職務時不受香港特別行政區執法人員檢查、搜查和扣押。
- 駐香港特別行政區維護國家安全公署及其人員享有香港特別行政區法律規定的其他權利和豁免。
- 第六十一條 駐香港特別行政區維護國家安全公署依據本法規定履行職責時，香港特別行政區政府有關部門須提供必要的便利和配合，對妨礙有關執行職務的行為依法予以制止並追究責任。

【第六章 附則】

- 第六十二條 香港特別行政區本地法律規定與本法不一致的，適用本法規定。
- 第六十三條 辦理本法規定的危害國家安全犯罪案件的有關執法、司法機關及其人員或者辦理其他危害國家安全犯罪案件的香港特別行政區執法、司法機關及其人員，應當對辦案過程中知悉的國家秘密、商業秘密和個人隱私予以保密。
擔任辯護人或者訴訟代理人的律師應當保守在執業活動中知悉的國家秘密、商業秘密和個人隱私。
配合辦案的有關機構、組織和個人應當對案件有關情況予以保密。
- 第六十四條 香港特別行政區適用本法時，本法規定的「有期徒刑」「無期徒刑」「沒收財產」和「罰金」分別指「監禁」「終身監禁」「充公犯罪所得」和「罰款」，「拘役」參照適用香港特別行政區相關法律規定的「監禁」「入勞役中心」「入教導所」，「管制」參照適用香港特別行政區相關法律規定的「社會服務令」「入感化院」，「吊銷執照或者營業許可證」指香港特別行政區相關法律規定的「取消註冊或者註冊豁免，或者取消牌照」。
- 第六十五條 本法的解釋權屬於全國人民代表大會常務委員會。
- 第六十六條 本法自公布之日起施行。

■ Editor's note =====

Following the promulgation of the law on June 30, 2020, the PRC on July 8, 2020 established the Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region (*zhongyāng rénmin zhèngfǔ zhū Xiānggǎng tèbié xíngzhèngqū wéibū guójiā ānquán gōngshù* 中央人民政府駐香港特別行政區維護國家安全公署, abbrev. CPGNSO) to ensure and supervise the implementation of the law. The office is not subject to Hong Kong jurisdiction, and the regime in Beijing appointed Zheng Yanxiong 鄭雁雄 (b. 1963, Guangdong) as its inaugural director (*shuzhǎng* 署長).

Implementation Rules for Article 43 of the HKSAR National Security Law

Implementation Rules for Article 43 of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region

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Implementation Rules for Article 43 of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (Implementation Rules) were gazetted today (July 6) and will take effect on July 7.

The Standing Committee of the National People's Congress (NPCSC) passed on June 30 the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (the National Security Law) and listed the legislation in Annex III to the Basic Law in accordance with the procedures under Article 18 of the Basic Law. The Hong Kong Special Administrative Region (HKSAR) Government promulgated the National Security Law in the gazette for implementation at 11pm the same day. Article 43 of the National Security Law stipulates various measures that the department for safeguarding national security of the Police Force of HKSAR may take when handling cases concerning offence endangering national security, and authorises the Chief Executive of the HKSAR, in conjunction with the Committee for Safeguarding National Security of the HKSAR (National Security Committee) to make relevant implementation rules for the purpose of applying the measures stipulated under Article 43.

At the first meeting of the National Security Committee today, the Chief Executive, in conjunction with the National Security Committee, exercised the power under Article 43 of the National Security Law to make relevant implementation rules for law enforcement agencies such as the department for safeguarding national security of the Hong Kong Police Force to implement the measures stipulated under Article 43. The Implementation Rules provide

for rules that relevant officers should observe when carrying out the specific measures concerned to prevent, suppress and impose punishment for offences endangering national security, and relevant offences and penalties for the effective implementation of the measures, so as to improve the enforcement mechanisms for the HKSAR to safeguard national security.

The Government spokesman pointed out that the aforementioned Implementation Rules, formulated for the exercise of various measures by relevant officers, clearly set out in detail the procedural requirements, circumstances that must be met and conditions for approval, etc. when implementing those measures. The purpose is to ensure that when relevant officers exercise powers and apply measures under Article 43 of the National Security Law to enforce the Law, the objectives of preventing, suppressing and imposing punishment for any acts and activities endangering national security can be achieved, while the requirement under the General Principles of the National Security Law to respect and protect human rights, as well as the protection of various rights and freedom in accordance with the law can be complied with.

The Implementation Rules have the force of law, and details are as follows:

1. Search of Places for Evidence

The relevant rules are formulated with reference to various existing ordinances regarding the permission to conduct urgent search under exceptional circumstances, including the Firearms and Ammunition Ordinance (Cap. 238) and the Import and Export Ordinance (Cap. 60). For investigation of an offence endangering national security, a police officer may apply to a magistrate for a warrant to enter and search a place for evidence. Under exceptional circumstances (for instance, in urgent situations), a police officer not below the rank of Assistant Commissioner of Police may authorise his officers to enter the relevant place to search for evidence without a warrant.

2. Restriction on Persons under Investigation from Leaving Hong Kong

With reference to provisions under the Prevention of Bribery Ordinance (Cap. 201) which restrict a person under investigation from leaving Hong Kong, the rules authorise police officers to apply to a magistrate for a warrant to require a person who is suspected to have committed offences endangering national security to surrender his travel document, and to restrict that person from leaving Hong Kong, lest some of the persons involved in the case abscond overseas. A person who has surrendered a travel document may make application in writing to the Commissioner of Police or to a magistrate for its return and for permission to leave Hong Kong.

3. Freezing, Restraint, Confiscation and Forfeiture of Property Related to Offences Endangering National Security

The arrangements concerned are formulated with reference to the existing powers and provisions under the Organized and Serious Crimes Ordinance (Cap. 455) and the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575). If the Secretary for Security has reasonable grounds to suspect that any property is property related to an offence endangering national security, he may, by notice in writing, direct that a person must not deal with the property. The Court of First Instance may, on the application by the Secretary for Justice, order the confiscation of the property related to the offence. Anyone who knows or suspects that any property is property related to an offence endangering national security is obliged to make a disclosure to the Police Force as soon as is reasonably practicable, and must not disclose to another person any information which is likely to prejudice any investigation which might be conducted following that first-mentioned disclosure. In addition, the Secretary for Justice may make an application to the Court of First Instance for a restraint order or charging order to prohibit any person from dealing with any realisable property, or impose on any realisable property that is specified in the order a charge for securing the payment of money to the Government. Furthermore, the Secretary for Justice may also make an application to the court for confiscating the proceeds arising from an offence endangering national security and ordering the amount due be paid within a fixed period.

4. Removal of Messages Endangering National Security and Request for Assistance

If the Commissioner of Police has reasonable grounds to suspect that an electronic message published on an electronic platform is likely to constitute an offence endangering national security or is likely to cause the occurrence of an offence endangering national security, he may, with the approval of the Secretary for Security, authorise a designated police officer to request the relevant message publisher(s), platform service provider(s), hosting service provider(s) and/or network service provider(s) to remove the message; restrict or cease access by any person to the message; or restrict or cease access by any person to the platform or its relevant part(s). It is a reasonable defence if the technology necessary for complying with the requirement was not reasonably available to the publisher or relevant service provider; or there was a risk of incurring substantial loss to, or otherwise substantially prejudicing the right of, a third party.

If the publisher fails to cooperate immediately, and the relevant information on the Internet will continue to seriously affect members of the public, police officers may apply to the magistrate for a warrant to seize the relevant electronic device and take any action for removing that information as soon as practicable. Relevant officers may also apply to the magistrate for a warrant under specific circumstances to authorise police officers to request the relevant service provider to provide the identification record or decryption assistance as the case requires.

5. Requiring Foreign and Taiwan Political Organisations and Agents to Provide Information on Activities Concerning Hong Kong

If the Commissioner of Police reasonably believes that it is necessary for the prevention and investigation of an offence endangering national security, the Commissioner of Police may, with the approval of the Secretary for Security, by written notice served on a foreign political organisation or Taiwan political organisation, or a foreign agent or a Taiwan agent, require the organisation or agent to provide the Commissioner of Police with the prescribed information (including the activities, the personal particulars, as well as the assets, income, sources of income, and expenditure of the organisation in Hong Kong) in a prescribed manner within the specified period. The relevant rules are formulated with reference to the prevailing provisions of the Societies Ordinance (Cap. 151) under which Societies Officers may request the provision of information from societies.

6. Application on Authorisation for Interception of Communications and Covert Surveillance

To effectively prevent and detect offences endangering national security and protect the confidentiality of information related to national security, all applications for interception of communications and covert surveillance operations must be approved by the Chief Executive. Applications for the less intrusive covert surveillance may be made to a directorate officer of the Police Force designated by the Chief Executive. The authorising authority has to ensure that the covert operation concerned satisfies the proportionality and necessity tests before granting the authorisation. According to Article 43 of the National Security Law, the National Security Committee shall be responsible for supervising the implementation of the stipulated measures by the Police Force. On the other hand, the Implementation Rules provide that the Chief Executive may appoint an independent person to assist the National Security Committee in performing the aforementioned supervising responsibility. Furthermore, the Secretary for Security issues Operating Principles and Guidelines for the purpose of providing operating principles and guidance to officers of the HKPF regarding the making of relevant applications and the exercise of powers. Officers of the HKPF are required to comply with the provisions in the Operating Principles and Guidelines when performing any function under the relevant rules. The Operating Principles and Guidelines will be gazetted at the same time with the Implementation Rules.

7. Requirement to Furnish Information and Produce Materials

For the purpose of assisting an investigation into an offence endangering national security or the proceeds obtained with the commission of the relevant offence, the Secretary for Justice or police officers may apply to the court for an order to require the person concerned to answer questions within a specified time period, or to furnish or produce the relevant information or material. The provisions are formulated with reference to the relevant powers and provisions under the Organized and Serious Crimes Ordinance (Cap. 455) and the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) currently.

To ensure the effective implementation of the above relevant measures, there is also a need to provide in the Implementation Rules relevant penalties for contravention of the requirements. For instance, if a person who published a message fails to comply with the requirement of the police to remove the message endangering national security without reasonable excuse, the person is liable on conviction to a fine of \$100,000 and to imprisonment for one year. If a service provider fails to comply with the requirement to remove messages endangering national security, or to restrict or cease access to messages or platforms, or the request to provide assistance, the service provider is liable on conviction to a fine of \$100,000 and to imprisonment for six months. Furthermore, a foreign political organisation or Taiwan political organisation, or a foreign agent or a Taiwan agent, who fails to provide information as requested by the Police is liable on conviction to a fine of \$100,000 and to imprisonment for six months unless it can prove that it has exercised due diligence and there have been reasons beyond its control. If any information provided is false, incorrect, or incomplete, the person who provided the information is liable on conviction to a fine of \$100,000 and to imprisonment for two years, unless the person has grounds to believe that the relevant information was true, correct and complete. As for other items, the relevant offences and defence (if specified) are largely the same as the existing provisions in the laws that the Implementation Rules have made reference to. The provision of defence provisions under appropriate circumstances provide appropriate defence for people who fail to comply with the requirements. The above Implementation Rules are in compliance with the

requirements concerned under the National Security Law and the Basic Law, including the requirements concerning the respect and protection of human rights.

Government representatives will attend a joint panel meeting of the Panel on Security, the Panel on Administration of Justice and Legal Services and the Panel on Constitutional Affairs of the Legislative Council on July 7 to brief Members on the content of National Security Law and the Implementation Rules.

Monday, July 6, 2020

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《中華人民共和國香港特別行政區維護國家安全法第四十三條實施細則》

《中華人民共和國香港特別行政區維護國家安全法第四十三條實施細則》
(《實施細則》) 今日(七月六日)刊憲公布,於七月七日生效。

全國人民代表大會常務委員會(全國人大常委會)六月三十日正式通過《中華人民共和國香港特別行政區維護國家安全法》(《國安法》),並按《基本法》第十八條的程序列入《基本法》附件三。香港特別行政區(香港特區)政府於同日晚上十一時刊憲公布實施。《國安法》第四十三條規定特區政府警務處維護國家安全部門辦理危害國家安全犯罪案件時可以採取的各種措施,並授權香港特區行政長官會同香港特別行政區維護國家安全委員會(國安委)為採取第四十三條所規定的措施制定相關實施細則。

行政長官於今日首次召開的國安委會議上,會同國安委行使《國安法》第四十三條所授予的權力,為警務處維護國家安全部門等執法機構,制定使用第四十三條所規定的措施的相關實施細則。《實施細則》包括為相關人員採取該特定措施以防範、制止及懲治危害國家安全罪行時的細則,及為確保有效執行措施所需的相關罪行和罰則,以完善特區維護國家安全的執行機制。

政府發言人指出,上述為相關人員行使各項規定措施所訂定的《實施細則》,清晰並詳細地列明執行各項措施的程序要求、所需符合的情況和審批的條件等,其目的是確保相關人員在執行《國安法》時,所行使《國安法》第四十三條的權力和採取的措施,既能達到防範、制止和懲治危害國家安全行為和活動的目的,也能同時符合《國安法》總則下對尊重和保障人權以及依法保護各項權利和自由的要求。

《實施細則》具有法律效力,詳情如下:

1. 為搜證而搜查有關地方

有關細則參照多條現行法例中有關特殊情況下容許緊急搜查的條文,包括《火器及彈藥條例》(第 238 章)及《進出口條例》(第 60 章)等。為偵查危害國家安全罪行,警務人員可向裁判官申請手令進入和搜查有關地方進行搜證。在特殊情況(如緊急情況)下,助理處長級或以上警務人員可授權其人員在無手令的情況下,進入有關地方搜證。

2. 限制受調查的人離開香港

參照現行《防止賄賂條例》(第 201 章)限制受調查人離境的條文,細則授權警務人員可向裁判官申請手令,要求懷疑犯了該等危害國家安全罪行而受調查的人交出旅行證件,並限制其離開香港,以免部分涉案人士潛逃海外。交出旅行證件的人,可以書面向警務處處長或裁判官申請發還該旅行證件及批准離開香港。

3. 凍結、限制、沒收及充公與危害國家安全罪行相關財產

有關安排參照現行《有組織及嚴重罪行條例》(第 455 章)及《聯合國(反恐怖主義措施)條例》(第 575 章)相關權力和規定。保安局局長如有合理理由懷疑某財產是危害國家安全罪行相關財產,可藉書面通知作出指示,任何人不得處理該財產。而原訟法庭可在律政司司長的申請下,命令將罪行相關財產充公。任何人如知悉或懷疑任何財產是危害國家安全罪行相關財產,亦有責任在切實可行的情況下盡快向警方披露,以及不得向另一人披露任何相當可能損害或會因應上述的披露而進行的任何調查的資料。律政司司長亦可向原訟法庭申請限制令或押記令,禁止任何人處理任何可變現財產,或指明可變現財產作為押記以擔保向政府繳付款項的命令,並可向法庭申請沒收危害國家安全罪行的犯罪得益,命令在訂定期間內妥為繳付追討款額。

4. 移除危害國家安全的信息及要求協助

如警務處處長有合理理由懷疑在電子平台上發布的電子信息相當可能構成危害國家安全罪行或相當可能會導致危害國家安全罪行的發生,可在保安局局長批准下,授權指定的警務處人員要求有關發布人士、平台服務商、主機服務商及/或網路服務商移除危害國家安全的信息;限制或停止任何人接達該信息;或限制或停止任何人接達該平台或相關部分。但若所需的科技並非發布者或有關服務商合理可得,

或有關服務商遵從有關要求有對第三方招致相當程度損失或損害第三方的權利的風險存在，則可為合理辯解。

若有關的信息發布人未即時合作，而有關資訊會繼續在網上嚴重影響公眾，警務人員可向裁判官申請手令檢取有關電子器材，並作出行動盡快移除該信息。有關人員亦可在指定情況向裁判官申請發出手令，授權警務人員，要求有關服務商按情況所需提供有關身分紀錄或解密協助。

5. 向外國及台灣政治性組織及其代理人要求就涉港活動提供資料

警務處處長如合理地相信是防止及偵查危害國家安全罪行所需要的，可在保安局局長批准下，藉向某外國政治性組織或台灣政治性組織，或某外國代理人或台灣代理人，送達書面通知，規定該組織或代理人在指定期限內，按指定方式向警務處處長提交指明資料（包括在香港的活動及個人資料、資產、收入、收入來源及開支）。此細則參考了現有《社團條例》（第 151 章），社團事務主任可要求社團提供資料的條文。

6. 進行截取通訊及秘密監察的授權申請

為有效防止和偵測危害國家安全罪行及保護涉及國家安全的資料的機密性，所有截取通訊及秘密監察行動的申請，須經行政長官批准；而進行侵擾程度較低的秘密監察行動，可向行政長官指定的首長級警務處人員申請。授權當局須確定秘密行動能符合「相稱性」和「必要性」的驗證標準，方可作出授權。根據《國安法》第四十三條，國安委對警務處採取規定的措施負有監督責任，而根據實行細則，行政長官可委任一名獨立人士，協助國安委履行上述的監督責任。此外，保安局局長亦發出《運作原則及指引》，為警務人員如何作出有關申請及行使權力提供運作原則及指引，規定警務處人員在執行有關職能時須予遵守。有關《運作原則及指引》會與《實施細則》同時刊憲。

7. 提供資料和提交物料

為協助偵查危害國家安全罪行，或干犯有關罪行而獲得的得益，律政司司長或警務人員可向法庭申請批准，要求有關人士在指定時限內回答問題，或提供或交出相關資料或物料。有關條文，參考現行《有組織及嚴重罪行條例》（第 455 章）及《聯合國（反恐怖主義措施）條例》（第 575 章）相關權力和規定。

為確保上述有關措施能有效實施，《實施細則》亦按需要訂定違反規定的相關罰則。舉例而言，若無合理辯解，如信息發布人未有遵從警方移除危害國家安全的信息要求，一經定罪，可被判罰款\$100,000 及監禁一年；如有服務商未有遵從移除或限制或停止任何人接達危害國家安全的信息或平台，或提供協助的要求，一經定罪，則可被判罰款\$100,000 及監禁六個月。此外，若外國及台灣政治性組織或外國及台灣代理人未有按要求向警方提供資料，除非可證明已經盡力或有非可能控制的原因，否則一經定罪，可被判罰款\$100,000 及監禁六個月；而若涉及提供虛假、不正確或不完整的資料，則可被判罰款\$100,000 及監禁兩年，但有理由相信有關資料是真實、正確及完整則屬合理辯解。至於其他的各項，有關的罪行及免責辯護（如有訂明）與所參考的現有法律條文大致相同。在合適的情況下提供辯解條文，可以為無法遵從要求的人提供合適的辯解理由。上述的實施細則符合《國安法》及《基本法》的規定，包括關於尊重和保障人權的規定。

政府代表明日（七月七日）會出席立法會保安事務委員會、司法及法律事務委員會及政制事務委員會聯合會議，向議員講解《國安法》及《實施細則》的內容。

2020 年 7 月 6 日（星期一）

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